

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Fiorentino offered the following:

**Amendment (with title amendment)**

Remove line(s) 1028-1066, and insert:

Section 23. Section 400.141, Florida Statutes, is amended to read:

400.141 Administration and management of nursing home facilities.--Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(1) Be under the administrative direction and charge of a licensed administrator.

(2) Appoint a medical director licensed pursuant to chapter 458 or chapter 459. The agency may establish by rule more specific criteria for the appointment of a medical director.

(3) Have available the regular, consultative, and emergency services of physicians licensed by the state.

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28 (4) Provide for resident use of a community pharmacy as  
29 specified in s. 400.022(1)(q). Any other law to the contrary  
30 notwithstanding, a registered pharmacist licensed in Florida,  
31 that is under contract with a facility licensed under this  
32 chapter, shall repackage a nursing facility resident's bulk  
33 prescription medication which has been packaged by another  
34 pharmacist licensed in any state in the United States into a  
35 unit dose system compatible with the system used by the nursing  
36 facility, if the pharmacist is requested to offer such service.  
37 In order to be eligible for the repackaging, a resident or the  
38 resident's spouse must receive prescription medication benefits  
39 provided through a former employer as part of his or her  
40 retirement benefits, a qualified pension plan as specified in s.  
41 4972 of the Internal Revenue Code, a federal retirement program  
42 as specified under 5 C.F.R. s. 831, or a long-term care policy  
43 as defined in s. 627.9404(1). A pharmacist who correctly  
44 repackages and relabels the medication and the nursing facility  
45 which correctly administers such repackaged medication under the  
46 provisions of this subsection shall not be held liable in any  
47 civil or administrative action arising from the repackaging. In  
48 order to be eligible for the repackaging, a nursing facility  
49 resident for whom the medication is to be repackaged shall sign  
50 an informed consent form provided by the facility which includes  
51 an explanation of the repackaging process and which notifies the  
52 resident of the immunities from liability provided herein. A  
53 pharmacist who repackages and relabels prescription medications,  
54 as authorized under this subsection, may charge a reasonable fee  
55 for costs resulting from the implementation of this provision.

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56 (5) Provide for the access of the facility residents to  
57 dental and other health-related services, recreational services,  
58 rehabilitative services, and social work services appropriate to  
59 their needs and conditions and not directly furnished by the  
60 licensee. When a geriatric outpatient nurse clinic is conducted  
61 in accordance with rules adopted by the agency, outpatients  
62 attending such clinic shall not be counted as part of the  
63 general resident population of the nursing home facility, nor  
64 shall the nursing staff of the geriatric outpatient clinic be  
65 counted as part of the nursing staff of the facility, until the  
66 outpatient clinic load exceeds 15 a day.

67 (6) Be allowed and encouraged by the agency to provide  
68 other needed services under certain conditions. If the facility  
69 has a standard licensure status, and has had no class I or class  
70 II deficiencies during the past 2 years or has been awarded a  
71 Gold Seal under the program established in s. 400.235, it may be  
72 encouraged by the agency to provide services, including, but not  
73 limited to, respite and adult day services, which enable  
74 individuals to move in and out of the facility. A facility is  
75 not subject to any additional licensure requirements for  
76 providing these services. Respite care may be offered to persons  
77 in need of short-term or temporary nursing home services.  
78 Respite care must be provided in accordance with this part and  
79 rules adopted by the agency. However, the agency shall, by rule,  
80 adopt modified requirements for resident assessment, resident  
81 care plans, resident contracts, physician orders, and other  
82 provisions, as appropriate, for short-term or temporary nursing  
83 home services. The agency shall allow for shared programming and  
84 staff in a facility which meets minimum standards and offers

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85 services pursuant to this subsection, but, if the facility is  
86 cited for deficiencies in patient care, may require additional  
87 staff and programs appropriate to the needs of service  
88 recipients. A person who receives respite care may not be  
89 counted as a resident of the facility for purposes of the  
90 facility's licensed capacity unless that person receives 24-hour  
91 respite care. A person receiving either respite care for 24  
92 hours or longer or adult day services must be included when  
93 calculating minimum staffing for the facility. Any costs and  
94 revenues generated by a nursing home facility from  
95 nonresidential programs or services shall be excluded from the  
96 calculations of Medicaid per diems for nursing home  
97 institutional care reimbursement.

98 (7) If the facility has a standard licensure status or is  
99 a Gold Seal facility, exceeds minimum staffing standards, and is  
100 part of a retirement community that offers other services  
101 pursuant to part III, part IV, or part V, be allowed to share  
102 programming and staff. At the time of relicensure, a retirement  
103 community that uses this option must demonstrate through  
104 staffing records that minimum staffing requirements for the  
105 facility were exceeded.

106 (8) Maintain the facility premises and equipment and  
107 conduct its operations in a safe and sanitary manner.

108 (9) If the licensee furnishes food service, provide a  
109 wholesome and nourishing diet sufficient to meet generally  
110 accepted standards of proper nutrition for its residents and  
111 provide such therapeutic diets as may be prescribed by attending  
112 physicians. In making rules to implement this subsection, the  
113 agency shall be guided by standards recommended by nationally

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114 recognized professional groups and associations with knowledge  
115 of dietetics.

116 (10) Keep full records of resident admissions and  
117 discharges; medical and general health status, including medical  
118 records, personal and social history, and identity and address  
119 of next of kin or other persons who may have responsibility for  
120 the affairs of the residents; and individual resident care plans  
121 including, but not limited to, prescribed services, service  
122 frequency and duration, and service goals. The records shall be  
123 open to inspection by the agency.

124 (11) Keep such fiscal records of its operations and  
125 conditions as may be necessary to provide information pursuant  
126 to this part.

127 (12) Furnish copies of personnel records for employees  
128 affiliated with such facility, to any other facility licensed by  
129 this state requesting this information pursuant to this part.  
130 Such information contained in the records may include, but is  
131 not limited to, disciplinary matters and any reason for  
132 termination. Any facility releasing such records pursuant to  
133 this part shall be considered to be acting in good faith and may  
134 not be held liable for information contained in such records,  
135 absent a showing that the facility maliciously falsified such  
136 records.

137 (13) Publicly display a poster provided by the agency  
138 containing the names, addresses, and telephone numbers for the  
139 state's abuse hotline, the State Long-Term Care Ombudsman, the  
140 Agency for Health Care Administration consumer hotline, the  
141 Advocacy Center for Persons with Disabilities, the Florida  
142 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,

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143 with a clear description of the assistance to be expected from  
144 each.

145 (14) Submit to the agency the information specified in s.  
146 400.071(2)(e) for a management company within 30 days after the  
147 effective date of the management agreement.

148 (15) Submit semiannually to the agency, or more frequently  
149 if requested by the agency, information regarding facility  
150 staff-to-resident ratios, staff turnover, and staff stability,  
151 including information regarding certified nursing assistants,  
152 licensed nurses, the director of nursing, and the facility  
153 administrator. For purposes of this reporting:

154 (a) Staff-to-resident ratios must be reported in the  
155 categories specified in s. 400.23(3)(a) and applicable rules.  
156 The ratio must be reported as an average for the most recent  
157 calendar quarter.

158 (b) Staff turnover must be reported for the most recent  
159 12-month period ending on the last workday of the most recent  
160 calendar quarter prior to the date the information is submitted.  
161 The turnover rate must be computed quarterly, with the annual  
162 rate being the cumulative sum of the quarterly rates. The  
163 turnover rate is the total number of terminations or separations  
164 experienced during the quarter, excluding any employee  
165 terminated during a probationary period of 3 months or less,  
166 divided by the total number of staff employed at the end of the  
167 period for which the rate is computed, and expressed as a  
168 percentage.

169 (c) The formula for determining staff stability is the  
170 total number of employees that have been employed for more than  
171 12 months, divided by the total number of employees employed at

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172 the end of the most recent calendar quarter, and expressed as a  
173 percentage.

174 (d) A nursing facility that has failed to comply with  
175 state minimum-staffing requirements for 2 consecutive days is  
176 prohibited from accepting new admissions until the facility has  
177 achieved the minimum-staffing requirements for a period of 6  
178 consecutive days. For the purposes of this paragraph, any person  
179 who was a resident of the facility and was absent from the  
180 facility for the purpose of receiving medical care at a separate  
181 location or was on a leave of absence is not considered a new  
182 admission. Failure to impose such an admissions moratorium  
183 constitutes a class II deficiency.

184 (e) A nursing facility which is not on the watch list may  
185 be cited for failure to comply with the standards in s.  
186 400.23(3)(a) only if it has failed to meet those standards on 2  
187 consecutive days or if it has failed to meet at least 97 percent  
188 of those standards on any one day.

189 (f) A facility which is on the watch list must be in  
190 compliance with the standards in s. 400.23(3)(a) at all times.

191 (16) Report monthly the number of vacant beds in the  
192 facility which are available for resident occupancy on the day  
193 the information is reported.

194 (17) Notify a licensed physician when a resident exhibits  
195 signs of dementia or cognitive impairment or has a change of  
196 condition in order to rule out the presence of an underlying  
197 physiological condition that may be contributing to such  
198 dementia or impairment. The notification must occur within 30  
199 days after the acknowledgment of such signs by facility staff.  
200 If an underlying condition is determined to exist, the facility

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201 shall arrange, with the appropriate health care provider, the  
202 necessary care and services to treat the condition.

203 (18) If the facility implements a dining and hospitality  
204 attendant program, ensure that the program is developed and  
205 implemented under the supervision of the facility director of  
206 nursing. A licensed nurse, licensed speech or occupational  
207 therapist, or a registered dietitian must conduct training of  
208 dining and hospitality attendants. A person employed by a  
209 facility as a dining and hospitality attendant must perform  
210 tasks under the direct supervision of a licensed nurse.

211 (19) Report to the agency any filing for bankruptcy  
212 protection by the facility or its parent corporation,  
213 divestiture or spin-off of its assets, or corporate  
214 reorganization within 30 days after the completion of such  
215 activity.

216 (20) Maintain general and professional liability insurance  
217 coverage that is in force at all times. In lieu of general and  
218 professional liability insurance coverage, a state-designated  
219 teaching nursing home and its affiliated assisted living  
220 facilities created under s. 430.80 may demonstrate proof of  
221 financial responsibility as provided in s. 430.80(3)(h); the  
222 exception provided in this paragraph shall expire July 1, 2005.

223 (21) Maintain in the medical record for each resident a  
224 daily chart of certified nursing assistant services provided to  
225 the resident. The certified nursing assistant who is caring for  
226 the resident must complete this record by the end of his or her  
227 shift. This record must indicate assistance with activities of  
228 daily living, assistance with eating, and assistance with  
229 drinking, and must record each offering of nutrition and

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230 hydration for those residents whose plan of care or assessment  
231 indicates a risk for malnutrition or dehydration.

232 (22) Before November 30 of each year, subject to the  
233 availability of an adequate supply of the necessary vaccine,  
234 provide for immunizations against influenza viruses to all its  
235 consenting residents in accordance with the recommendations of  
236 the United States Centers for Disease Control and Prevention,  
237 subject to exemptions for medical contraindications and  
238 religious or personal beliefs. Subject to these exemptions, any  
239 consenting person who becomes a resident of the facility after  
240 November 30 but before March 31 of the following year must be  
241 immunized within 5 working days after becoming a resident.  
242 Immunization shall not be provided to any resident who provides  
243 documentation that he or she has been immunized as required by  
244 this subsection. This subsection does not prohibit a resident  
245 from receiving the immunization from his or her personal  
246 physician if he or she so chooses. A resident who chooses to  
247 receive the immunization from his or her personal physician  
248 shall provide proof of immunization to the facility. The agency  
249 may adopt and enforce any rules necessary to comply with or  
250 implement this subsection.

251 (23) Assess all residents for eligibility for pneumococcal  
252 polysaccharide vaccination (PPV) and vaccinate residents when  
253 indicated within 60 days after the effective date of this act in  
254 accordance with the recommendations of the United States Centers  
255 for Disease Control and Prevention, subject to exemptions for  
256 medical contraindications and religious or personal beliefs.  
257 Residents admitted after the effective date of this act shall be  
258 assessed within 5 working days of admission and, when indicated,

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259 vaccinated within 60 days in accordance with the recommendations  
 260 of the United States Centers for Disease Control and Prevention,  
 261 subject to exemptions for medical contraindications and  
 262 religious or personal beliefs. Immunization shall not be  
 263 provided to any resident who provides documentation that he or  
 264 she has been immunized as required by this subsection. This  
 265 subsection does not prohibit a resident from receiving the  
 266 immunization from his or her personal physician if he or she so  
 267 chooses. A resident who chooses to receive the immunization from  
 268 his or her personal physician shall provide proof of  
 269 immunization to the facility. The agency may adopt and enforce  
 270 any rules necessary to comply with or implement this subsection.

271 (24) Annually encourage and promote to its employees the  
 272 benefits associated with immunizations against influenza viruses  
 273 in accordance with the recommendations of the United States  
 274 Centers for Disease Control and Prevention. The agency may adopt  
 275 and enforce any rules necessary to comply with or implement this  
 276 subsection.

277  
 278 Nothing in this section shall limit the agency's ability to  
 279 impose a deficiency or take other actions if a facility does not  
 280 have enough staff to meet the residents' needs. Facilities that  
 281 have been awarded a Gold Seal under the program established in  
 282 s. 400.235 may develop a plan to provide certified nursing  
 283 assistant training as prescribed by federal regulations and  
 284 state rules and may apply to the agency for approval of their  
 285 program.

286  
 287 ===== T I T L E A M E N D M E N T =====

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288 Remove line(s) 91, and insert:  
289 minimum staffing standards for certain nursing facilities  
290 within a