

By Senators Atwater, Lynn and Klein

25-884A-03

1 A bill to be entitled
 2 An act relating to nursing homes; amending s.
 3 400.021, F.S.; amending the definition of the
 4 term "resident care plan" as used in part II of
 5 ch. 400, F.S.; amending s. 400.111, F.S.;
 6 requiring the Agency for Health Care
 7 Administration to give notice, as specified, of
 8 the necessity to renew a license; amending s.
 9 400.141, F.S.; amending prerequisites to shared
 10 staffing; providing for rulemaking; amending
 11 provisions that specify deficiencies in
 12 staffing which trigger an admissions
 13 moratorium; amending s. 400.23, F.S.; amending
 14 provisions relating to minimum staffing
 15 requirements; providing exceptions for a state
 16 of emergency declared by the Governor or his
 17 designee; amending s. 400.235, F.S.; amending
 18 provisions describing the financial soundness
 19 and stability that constitutes a prerequisite
 20 to recognition as a Gold Seal Program;
 21 providing an effective date.

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 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Subsection (17) of section 400.021, Florida
 26 Statutes, is amended to read:

27 400.021 Definitions.--When used in this part, unless
 28 the context otherwise requires, the term:

29 (17) "Resident care plan" means a written plan
 30 developed, maintained, and reviewed not less than quarterly by
 31 a registered nurse, with participation from other facility

1 staff and the resident or his or her designee or legal
2 representative, which includes a comprehensive assessment of
3 the needs of an individual resident; the type and frequency of
4 services required to provide the necessary care for the
5 resident to attain or maintain the highest practicable
6 physical, mental, and psychosocial well-being; a listing of
7 services provided within or outside the facility to meet those
8 needs; and an explanation of service goals. The resident care
9 plan must be signed by the director of nursing, another nurse
10 to whom institutional responsibilities have been delegated, or
11 the registered nurse who is responsible for the residents'
12 care, and by the resident, the residents' designee, or the
13 resident's legal representative.

14 Section 2. Subsection (1) of section 400.111, Florida
15 Statutes, is amended to read:

16 400.111 Expiration of license; renewal.--

17 (1) A license issued for the operation of a facility,
18 unless sooner suspended or revoked, shall expire on the date
19 set forth by the agency on the face of the license or 1 year
20 from the date of issuance, whichever occurs first. The agency
21 shall notify the facility by certified mail at least 120 days
22 before the license expires that a renewal license is necessary
23 to continue operating. Ninety days prior to the expiration
24 date, an application for renewal shall be submitted to the
25 agency. A license shall be renewed upon the filing of an
26 application on forms furnished by the agency if the applicant
27 has first met the requirements established under this part and
28 all rules adopted under this part. The failure to file an
29 application within the period established in this subsection
30 shall result in a late fee charged to the licensee by the
31 agency in an amount equal to 50 percent of the fee in effect

1 on the last preceding regular renewal date. A late fee shall
2 be levied for each and every day the filing of the license
3 application is delayed, but in no event shall such fine
4 aggregate more than \$5,000. If an application is received
5 after the required filing date and exhibits a hand-canceled
6 postmark obtained from a United States Post Office dated on or
7 before the required filing date, no fine will be levied.

8 Section 3. Subsection (7) and paragraph (d) of
9 subsection (15) of section 400.141, Florida Statutes, are
10 amended to read:

11 400.141 Administration and management of nursing home
12 facilities.--Every licensed facility shall comply with all
13 applicable standards and rules of the agency and shall:

14 (7) If the facility has a standard license licensure
15 ~~status~~ or is a Gold Seal facility, exceeds minimum required
16 hours of licensed nursing and certified nursing assistant
17 direct care per resident per day staffing standards, and is
18 part of a continuing care facility licensed under chapter 651
19 or a retirement community that offers other services pursuant
20 to part III, part IV, or part V on a single campus, be allowed
21 to share programming and staff. At the time of inspection and
22 in the semiannual report required under subsection (15)
23 ~~relicensure~~, a continuing care facility or retirement
24 community that uses this option must demonstrate through
25 staffing records that minimum staffing requirements for the
26 facility were met exceeded. Licensed nurses and certified
27 nursing assistants who work in the nursing home facility may
28 be used to provide services elsewhere on campus if the
29 facility exceeds the minimum number of direct care hours
30 required per resident per day and the total number of
31 residents receiving direct care services from a licensed nurse

1 or a certified nursing assistant never causes the facility to
2 violate the staffing ratios required in s. 400.23(3)(a).
3 Compliance with the minimum staffing ratios shall be based on
4 total number of residents receiving direct care services
5 regardless of where they reside on campus. If the facility
6 receives a conditional license, it may not share staff until
7 the conditional license status ends. This subsection does not
8 restrict the agency's authority under federal or state law to
9 require additional staff if a facility is cited for
10 deficiencies in care which are caused by an insufficient
11 number of certified nursing assistants or licensed nurses. The
12 agency may establish rules for the documentation necessary to
13 determine compliance with this provision.

14 (15) Submit semiannually to the agency, or more
15 frequently if requested by the agency, information regarding
16 facility staff-to-resident ratios, staff turnover, and staff
17 stability, including information regarding certified nursing
18 assistants, licensed nurses, the director of nursing, and the
19 facility administrator. For purposes of this reporting:

20 (d) A nursing facility that has failed to comply with
21 ~~state minimum~~ staffing requirements of s. 400.23(3)(a)2. or s.
22 400.23(3)(a)4. for 2 consecutive days is prohibited from
23 accepting new admissions until the facility has achieved the
24 ~~minimum~~ staffing requirements of s. 400.23(3)(a)2. and 4. for
25 a period of 6 consecutive days. For the purposes of this
26 paragraph, any person who was a resident of the facility and
27 was absent from the facility for the purpose of receiving
28 medical care at a separate location or was on a leave of
29 absence is not considered a new admission. Failure to impose
30 such an admissions moratorium constitutes a class II
31 deficiency.

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2 Facilities that have been awarded a Gold Seal under the
3 program established in s. 400.235 may develop a plan to
4 provide certified nursing assistant training as prescribed by
5 federal regulations and state rules and may apply to the
6 agency for approval of their program.

7 Section 4. Paragraph (a) of subsection (3) of section
8 400.23, Florida Statutes, is amended to read:

9 400.23 Rules; evaluation and deficiencies; licensure
10 status.--

11 (3)(a)1. The agency shall adopt rules providing for
12 the minimum staffing requirements for nursing homes. These
13 requirements shall include, for each nursing home facility:7

14 a. A biweekly average minimum certified nursing
15 assistant staffing of 2.3 hours of direct care per resident
16 per day beginning January 1, 2002, increasing to 2.6 hours of
17 direct care per resident per day beginning January 1, 2003,
18 and increasing to 2.9 hours of direct care per resident per
19 day beginning January 1, 2004.

20 b. A daily average certified nursing assistant
21 staffing that is at least 95 percent of the required biweekly
22 average under sub-subparagraph a., and at least 0.4 hours of
23 the required certified nursing assistant direct care per
24 resident must be maintained during the hours between 11 p.m.
25 and 7 a.m., but at least one certified nursing assistant must
26 be on duty at all times.

27 c. Beginning January 1, 2002, a biweekly average ~~no~~
28 facility shall staff below one certified nursing assistant per
29 ~~20~~ residents, and a minimum licensed nursing staffing of 1.0
30 hour of direct resident care per resident per day ~~but never~~
31 below one licensed nurse per ~~40~~ residents.

1 d. A daily average licensed nursing staffing that is
2 at least 95 percent of the required biweekly average under
3 sub-subparagraph c., and at least 0.2 hours of required
4 licensed nursing direct care per resident must be maintained
5 during the hours between 11 p.m. and 7 a.m., but at least one
6 licensed nurse must be on duty at all times.

7 2. Nursing assistants employed under s. 400.211(2) may
8 be included in computing the staffing ratio for certified
9 nursing assistants only if they provide nursing assistance
10 services to residents on a full-time basis.

11 3. Each nursing home must document compliance with
12 staffing standards as required under this paragraph and post
13 daily the names of staff on duty for the benefit of facility
14 residents and the public.

15 4. If the Governor or his designee declares a state of
16 emergency pursuant to s. 252.36, the agency may not cite
17 affected nursing home facilities for noncompliance with the
18 minimum staffing requirements until the state of emergency is
19 lifted.

20 5. The agency shall recognize the use of licensed
21 nurses for compliance with minimum staffing requirements for
22 certified nursing assistants, provided that the facility
23 otherwise meets the minimum staffing requirements for licensed
24 nurses and that the licensed nurses so recognized are
25 performing the duties of a certified nursing assistant. ~~Unless~~
26 ~~otherwise approved by the agency, licensed nurses counted~~
27 ~~towards the minimum staffing requirements for certified~~
28 ~~nursing assistants must exclusively perform the duties of a~~
29 ~~certified nursing assistant for the entire shift and shall not~~
30 ~~also be counted towards the minimum staffing requirements for~~
31 ~~licensed nurses.~~ If a nursing home facility uses the agency

1 ~~approved a facility's request to use~~ a licensed nurse to
2 perform both licensed nursing and certified nursing assistant
3 duties, the facility must allocate the amount of staff time
4 specifically spent on certified nursing assistant duties for
5 the purpose of documenting compliance with minimum staffing
6 requirements for certified and licensed nursing staff. ~~In no~~
7 ~~event may~~ The hours of a licensed nurse may not ~~with dual job~~
8 ~~responsibilities~~ be counted twice.

9 Section 5. Paragraph (b) of subsection (5) of section
10 400.235, Florida Statutes, is amended to read:

11 400.235 Nursing home quality and licensure status;
12 Gold Seal Program.--

13 (5) Facilities must meet the following additional
14 criteria for recognition as a Gold Seal Program facility:

15 (b) Evidence financial soundness and stability
16 according to standards adopted by the agency in administrative
17 rule. Such standards must include, but not be limited to,
18 criteria for the use of financial statements that are prepared
19 in accordance with generally accepted accounting principles
20 and that are reviewed or audited by certified public
21 accountants. A nursing home that is part of the same corporate
22 entity as a continuing care facility licensed under chapter
23 651, meets the minimum liquid reserve requirements specified
24 in s. 651.035, and is accredited by a recognized accrediting
25 organization under s. 651.028 and rules of the Office of
26 Insurance Regulation satisfies this requirement as long as the
27 accreditation is not provisional.

28 Section 6. This act shall take effect upon becoming a
29 law.

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SENATE SUMMARY

Revises provisions relating to nursing homes. Amends the definition of the term "resident care plan" as used in part II of ch. 400, F.S. Requires the Agency for Health Care Administration to give notice at least 120 days in advance of the need to renew a license. Amends requirements for shared staffing. Provides for rulemaking. Amends provisions that specify deficiencies in staffing which trigger a moratorium on admissions. Amends provisions relating to minimum staffing requirements. Suspends the enforcement of those requirements during a state of emergency declared by the Governor or his designee. Amends provisions describing the financial soundness and stability that constitute a prerequisite to recognition as a Gold Seal Program.