

By the Committee on Health, Aging, and Long-Term Care; and
Senators Atwater, Lynn and Klein

317-2132-03

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:

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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, or another
10 registered nurse employed by the facility to whom
11 institutional responsibilities have been delegated, and by the
12 resident, the residents' designee, or the resident's legal
13 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 regular mail or electronically at
22 least 120 days before the license expires that a renewal
23 license is necessary to continue operating. Ninety days prior
24 to the expiration date, an application for renewal shall be
25 submitted to the agency. A license shall be renewed upon the
26 filing of an application on forms furnished by the agency if
27 the applicant has first met the requirements established under
28 this part and all rules adopted under this part. The failure
29 to file an application within the period established in this
30 subsection shall result in a late fee charged to the licensee
31 by the agency in an amount equal to 50 percent of the fee in

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

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

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

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

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

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

21 (d) A nursing facility that has failed to comply with
22 ~~state minimum~~ staffing requirements of s. 400.23(3)(a)1.b. or
23 s. 400.23(3)(a)1.d. for 2 consecutive days is prohibited from
24 accepting new admissions until the facility has achieved the
25 ~~minimum~~ staffing requirements of s. 400.23(3)(a)1.b. and 1.d.
26 for a period of 6 consecutive days. For the purposes of this
27 paragraph, any person who was a resident of the facility and
28 was absent from the facility for the purpose of receiving
29 medical care at a separate location or was on a leave of
30 absence is not considered a new admission. Failure to impose

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1 such an admissions moratorium constitutes a class II
2 deficiency.

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

9 Section 4. Paragraph (a) of subsection (3) of section
10 400.23, Florida Statutes, is amended to read:

11 400.23 Rules; evaluation and deficiencies; licensure
12 status.--

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

16 a. A weekly average ~~minimum~~ certified nursing
17 assistant staffing of 2.3 hours of direct care per resident
18 per day beginning January 1, 2002, increasing to 2.6 hours of
19 direct care per resident per day beginning January 1, 2003,
20 and increasing to 2.9 hours of direct care per resident per
21 day beginning January 1, 2004. For the purpose of this
22 subsection, a week is defined as Sunday through Saturday.

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

30 c. Beginning January 1, 2002, a weekly average ~~no~~
31 facility shall staff below one certified nursing assistant per

1 ~~20 residents, and a minimum~~ licensed nursing staffing of 1.0
2 hour of direct resident care per resident per day ~~but never~~
3 ~~below one licensed nurse per 40 residents.~~

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

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

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

18 4. The agency may not cite a nursing home facility for
19 noncompliance with the minimum staffing requirements if the
20 noncompliance occurred during a state of emergency declared by
21 the Governor or his designee pursuant to s. 252.36 and the
22 facility is located in an affected geographic area.

23 5. The agency shall recognize the use of licensed
24 nurses for compliance with minimum staffing requirements for
25 certified nursing assistants, provided that the facility
26 otherwise meets the minimum staffing requirements for licensed
27 nurses and that the licensed nurses so recognized are
28 performing the duties of a certified nursing assistant. ~~Unless~~
29 ~~otherwise approved by the agency, licensed nurses counted~~
30 ~~towards the minimum staffing requirements for certified~~
31 ~~nursing assistants must exclusively perform the duties of a~~

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

12 6. For each nursing home on the watch list, the
13 following staffing standards shall apply during the time the
14 facility is on the watch list. The facility must have a
15 minimum certified nursing assistant staffing of 2.6 hours of
16 direct care per resident per day beginning January 1, 2003,
17 and increasing to 2.9 hours of direct care per resident per
18 day beginning January 1, 2004. No facility shall staff below
19 one certified nursing assistant per 20 residents, and a
20 minimum licensed nursing staffing of 1.0 hour of direct
21 resident care per resident per day but never below one
22 licensed nurse per 40 residents. Nursing assistants employed
23 under s. 400.211(2) may be included in computing the staffing
24 ratio for certified nursing assistants only if they provide
25 nursing assistance services to residents on a full-time basis.

26 Section 5. Paragraph (b) of subsection (5) of section
27 400.235, Florida Statutes, is amended to read:

28 400.235 Nursing home quality and licensure status;
29 Gold Seal Program.--

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

1 (b) Evidence financial soundness and stability
2 according to standards adopted by the agency in administrative
3 rule. Such standards must include, but not be limited to,
4 criteria for the use of financial statements that are prepared
5 in accordance with generally accepted accounting principles
6 and that are reviewed or audited by certified public
7 accountants. A nursing home that is part of the same corporate
8 entity as a continuing care facility licensed under chapter
9 651, meets the minimum liquid reserve requirements specified
10 in s. 651.035, and is accredited by a recognized accrediting
11 organization under s. 651.028 and rules of the Office of
12 Insurance Regulation satisfies this requirement as long as the
13 accreditation is not provisional.

14 Section 6. This act shall take effect upon becoming a
15 law.

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17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 Senate Bill 2150

20 The Committee Substitute differs from SB 2150 in the following
21 ways:

22 A registered nurse to whom institutional responsibilities have
23 been assigned could sign the resident care plan.

24 AHCA could notify a facility by regular mail or electronically
25 120 days before the facility's license must be renewed.

26 Compliance with staffing standards may be achieved by
27 computing a weekly average, rather than a biweekly average in
28 facilities that are not on the watch list.

29 A facility on the watch list must meet staffing standards
30 every day and may not demonstrate compliance with standards by
31 computing a weekly average.

For purposes of computing an average, a week begins on Sunday
and ends on Saturday.

A nursing home could not be cited for noncompliance with
staffing standards during an emergency declared by the
Governor if the facility was in the geographic area of the
emergency.

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