

By Senator Atwater

25-1093-04

1 A bill to be entitled
2 An act relating to nursing homes; amending s.
3 400.141, F.S.; providing that a nursing home
4 that fails to comply with a specified
5 percentage of the state minimum-staffing
6 requirements may not accept new admissions
7 until certain conditions are satisfied;
8 amending s. 400.23, F.S.; providing that the
9 standards for nursing supervision of nursing
10 home residents are altered for night shift
11 duties; providing an effective date.

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

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15 Section 1. Subsection (15) of section 400.141, Florida
16 Statutes, is amended to read:

17 400.141 Administration and management of nursing home
18 facilities.--Every licensed facility shall comply with all
19 applicable standards and rules of the agency and shall:

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

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

30 (b) Staff turnover must be reported for the most
31 recent 12-month period ending on the last workday of the most

1 recent calendar quarter prior to the date the information is
2 submitted. The turnover rate must be computed quarterly, with
3 the annual rate being the cumulative sum of the quarterly
4 rates. The turnover rate is the total number of terminations
5 or separations experienced during the quarter, excluding any
6 employee terminated during a probationary period of 3 months
7 or less, divided by the total number of staff employed at the
8 end of the period for which the rate is computed, and
9 expressed as a percentage.

10 (c) The formula for determining staff stability is the
11 total number of employees that have been employed for more
12 than 12 months, divided by the total number of employees
13 employed at the end of the most recent calendar quarter, and
14 expressed as a percentage.

15 (d) A nursing facility that has failed to comply with
16 97 percent of the state minimum-staffing requirements for 2
17 consecutive days is prohibited from accepting new admissions
18 until the facility has achieved the minimum-staffing
19 requirements for a period of 6 consecutive days. For the
20 purposes of this paragraph, any person who was a resident of
21 the facility and was absent from the facility for the purpose
22 of receiving medical care at a separate location or was on a
23 leave of absence is not considered a new admission. Failure to
24 impose such an admissions moratorium constitutes a class II
25 deficiency.

26 (e) A nursing facility that ~~which~~ does not have a
27 conditional license may be cited for failure to comply with
28 the standards in s. 400.23(3)(a) only if it has failed to meet
29 those standards on 2 consecutive days or if it has failed to
30 meet at least 97 percent of those standards on any one day.

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1 (f) A facility that ~~which~~ has a conditional license
2 must be in compliance with the standards in s. 400.23(3)(a) at
3 all times.

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5 Nothing in this section shall limit the agency's ability to
6 impose a deficiency or take other actions if a facility does
7 not have enough staff to meet the residents' needs.

8 Section 2. Paragraph (a) of subsection (3) of section
9 400.23, Florida Statutes, is amended to read:

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

12 (3)(a) The agency shall adopt rules providing for the
13 minimum staffing requirements for nursing homes. These
14 requirements shall include, for each nursing home facility, a
15 minimum certified nursing assistant staffing of 2.3 hours of
16 direct care per resident per day beginning January 1, 2002,
17 increasing to 2.6 hours of direct care per resident per day
18 beginning January 1, 2003, and increasing to 2.9 hours of
19 direct care per resident per day beginning May 1, 2004.
20 Beginning January 1, 2002, no facility shall staff below one
21 certified nursing assistant per 20 residents, and a minimum
22 licensed nursing staffing of 1.0 hour of direct resident care
23 per resident per day but never below one licensed nurse per 40
24 residents except during the night shift when one licensed
25 nurse per 60 residents shall apply. Nursing assistants
26 employed never below one licensed nurse per 40 residents.
27 Nursing assistants employed under s. 400.211(2) may be
28 included in computing the staffing ratio for certified nursing
29 assistants only if they provide nursing assistance services to
30 residents on a full-time basis. Each nursing home must
31 document compliance with staffing standards as required under

1 this paragraph and post daily the names of staff on duty for
2 the benefit of facility residents and the public. The agency
3 shall recognize the use of licensed nurses for compliance with
4 minimum staffing requirements for certified nursing
5 assistants, provided that the facility otherwise meets the
6 minimum staffing requirements for licensed nurses and that the
7 licensed nurses so recognized are performing the duties of a
8 certified nursing assistant. Unless otherwise approved by the
9 agency, licensed nurses counted towards the minimum staffing
10 requirements for certified nursing assistants must exclusively
11 perform the duties of a certified nursing assistant for the
12 entire shift and shall not also be counted towards the minimum
13 staffing requirements for licensed nurses. If the agency
14 approved a facility's request to use a licensed nurse to
15 perform both licensed nursing and certified nursing assistant
16 duties, the facility must allocate the amount of staff time
17 specifically spent on certified nursing assistant duties for
18 the purpose of documenting compliance with minimum staffing
19 requirements for certified and licensed nursing staff. In no
20 event may the hours of a licensed nurse with dual job
21 responsibilities be counted twice.

22 Section 3. This act shall take effect July 1, 2004.

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25 SENATE SUMMARY

26 Provides that a nursing home that fails to comply with 97
27 percent of the state minimum-staffing requirements may
28 not accept new admissions until certain conditions are
29 met. Provides that standards for nursing supervision of
30 nursing home residents are altered for night shift
31 duties.