

A bill to be entitled

An act relating to nursing home facilities; amending s. 400.118, F.S.; revising provisions relating to frequency of quality-of-care monitoring of specified facilities; amending s. 400.141, F.S.; authorizing facilities with a standard license to provide certified nursing assistant training; amending s. 400.147, F.S.; revising a definition; revising reporting requirements under facility internal risk management and quality assurance programs; amending s. 400.19, F.S.; providing conditions for scheduling surveys when certain deficiencies are overturned; amending s. 400.195, F.S.; correcting a cross-reference; amending s. 400.23, F.S.; revising conditions for documentation of compliance with staffing standards; directing the Agency for Health Care Administration to assign standard licensure status to a facility that has corrected specified deficiencies; revising provisions relating to classification of facility deficiencies; providing a definition; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 400.118, Florida Statutes, is amended to read:

400.118 Quality assurance; early warning system; monitoring; rapid response teams.--

(2) (a) The agency shall establish within each district office one or more quality-of-care monitors, based on the number

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29 of nursing facilities in the district, to monitor all nursing
30 facilities in the district on a regular, unannounced, aperiodic
31 basis, including nights, evenings, weekends, and holidays.
32 Quality-of-care monitors shall visit each nursing facility
33 annually, shall visit each conditionally licensed nursing
34 facility at least quarterly, and shall visit other nursing
35 facilities as directed by the agency. Priority for additional
36 monitoring visits shall be given to nursing facilities with a
37 history of resident care deficiencies. Quality-of-care monitors
38 shall be registered nurses who are trained and experienced in
39 nursing facility regulation, standards of practice in long-term
40 care, and evaluation of patient care. Individuals in these
41 positions shall not be deployed by the agency as a part of the
42 district survey team in the conduct of routine, scheduled
43 surveys, but shall function solely and independently as quality-
44 of-care monitors. Quality-of-care monitors shall assess the
45 overall quality of life in the nursing facility and shall assess
46 specific conditions in the facility directly related to resident
47 care, including the operations of internal quality improvement
48 and risk management programs and adverse incident reports. The
49 quality-of-care monitor shall include in an assessment visit
50 observation of the care and services rendered to residents and
51 formal and informal interviews with residents, family members,
52 facility staff, resident guests, volunteers, other regulatory
53 staff, and representatives of a long-term care ombudsman council
54 or Florida advocacy council.

55 Section 2. Section 400.141, Florida Statutes, is amended
56 to read:

57 | 400.141 Administration and management of nursing home
58 | facilities.--Every licensed facility shall comply with all
59 | applicable standards and rules of the agency and shall:

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

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

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

68 | (4) Provide for resident use of a community pharmacy as
69 | specified in s. 400.022(1)(q). Any other law to the contrary
70 | notwithstanding, a registered pharmacist licensed in Florida,
71 | that is under contract with a facility licensed under this
72 | chapter or chapter 429, shall repackage a nursing facility
73 | resident's bulk prescription medication which has been packaged
74 | by another pharmacist licensed in any state in the United States
75 | into a unit dose system compatible with the system used by the
76 | nursing facility, if the pharmacist is requested to offer such
77 | service. In order to be eligible for the repackaging, a resident
78 | or the resident's spouse must receive prescription medication
79 | benefits provided through a former employer as part of his or
80 | her retirement benefits, a qualified pension plan as specified
81 | in s. 4972 of the Internal Revenue Code, a federal retirement
82 | program as specified under 5 C.F.R. s. 831, or a long-term care
83 | policy as defined in s. 627.9404(1). A pharmacist who correctly
84 | repackages and relabels the medication and the nursing facility

85 | which correctly administers such repackaged medication under the
86 | provisions of this subsection shall not be held liable in any
87 | civil or administrative action arising from the repackaging. In
88 | order to be eligible for the repackaging, a nursing facility
89 | resident for whom the medication is to be repackaged shall sign
90 | an informed consent form provided by the facility which includes
91 | an explanation of the repackaging process and which notifies the
92 | resident of the immunities from liability provided herein. A
93 | pharmacist who repackages and relabels prescription medications,
94 | as authorized under this subsection, may charge a reasonable fee
95 | for costs resulting from the implementation of this provision.

96 | (5) Provide for the access of the facility residents to
97 | dental and other health-related services, recreational services,
98 | rehabilitative services, and social work services appropriate to
99 | their needs and conditions and not directly furnished by the
100 | licensee. When a geriatric outpatient nurse clinic is conducted
101 | in accordance with rules adopted by the agency, outpatients
102 | attending such clinic shall not be counted as part of the
103 | general resident population of the nursing home facility, nor
104 | shall the nursing staff of the geriatric outpatient clinic be
105 | counted as part of the nursing staff of the facility, until the
106 | outpatient clinic load exceeds 15 a day.

107 | (6) Be allowed and encouraged by the agency to provide
108 | other needed services under certain conditions. If the facility
109 | has a standard licensure status, and has had no class I or class
110 | II deficiencies during the past 2 years or has been awarded a
111 | Gold Seal under the program established in s. 400.235, it may be
112 | encouraged by the agency to provide services, including, but not

113 limited to, respite and adult day services, which enable
114 individuals to move in and out of the facility. A facility is
115 not subject to any additional licensure requirements for
116 providing these services. Respite care may be offered to persons
117 in need of short-term or temporary nursing home services.
118 Respite care must be provided in accordance with this part and
119 rules adopted by the agency. However, the agency shall, by rule,
120 adopt modified requirements for resident assessment, resident
121 care plans, resident contracts, physician orders, and other
122 provisions, as appropriate, for short-term or temporary nursing
123 home services. The agency shall allow for shared programming and
124 staff in a facility which meets minimum standards and offers
125 services pursuant to this subsection, but, if the facility is
126 cited for deficiencies in patient care, may require additional
127 staff and programs appropriate to the needs of service
128 recipients. A person who receives respite care may not be
129 counted as a resident of the facility for purposes of the
130 facility's licensed capacity unless that person receives 24-hour
131 respite care. A person receiving either respite care for 24
132 hours or longer or adult day services must be included when
133 calculating minimum staffing for the facility. Any costs and
134 revenues generated by a nursing home facility from
135 nonresidential programs or services shall be excluded from the
136 calculations of Medicaid per diems for nursing home
137 institutional care reimbursement.

138 (7) If the facility has a standard license or is a Gold
139 Seal facility, exceeds the minimum required hours of licensed
140 nursing and certified nursing assistant direct care per resident

141 per day, and is part of a continuing care facility licensed
142 under chapter 651 or a retirement community that offers other
143 services pursuant to part III of this chapter or part I or part
144 III of chapter 429 on a single campus, be allowed to share
145 programming and staff. At the time of inspection and in the
146 semiannual report required pursuant to subsection (15), a
147 continuing care facility or retirement community that uses this
148 option must demonstrate through staffing records that minimum
149 staffing requirements for the facility were met. Licensed nurses
150 and certified nursing assistants who work in the nursing home
151 facility may be used to provide services elsewhere on campus if
152 the facility exceeds the minimum number of direct care hours
153 required per resident per day and the total number of residents
154 receiving direct care services from a licensed nurse or a
155 certified nursing assistant does not cause the facility to
156 violate the staffing ratios required under s. 400.23(3)(a).
157 Compliance with the minimum staffing ratios shall be based on
158 total number of residents receiving direct care services,
159 regardless of where they reside on campus. If the facility
160 receives a conditional license, it may not share staff until the
161 conditional license status ends. This subsection does not
162 restrict the agency's authority under federal or state law to
163 require additional staff if a facility is cited for deficiencies
164 in care which are caused by an insufficient number of certified
165 nursing assistants or licensed nurses. The agency may adopt
166 rules for the documentation necessary to determine compliance
167 with this provision.

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

170 (9) If the licensee furnishes food service, provide a
171 wholesome and nourishing diet sufficient to meet generally
172 accepted standards of proper nutrition for its residents and
173 provide such therapeutic diets as may be prescribed by attending
174 physicians. In making rules to implement this subsection, the
175 agency shall be guided by standards recommended by nationally
176 recognized professional groups and associations with knowledge
177 of dietetics.

178 (10) Keep full records of resident admissions and
179 discharges; medical and general health status, including medical
180 records, personal and social history, and identity and address
181 of next of kin or other persons who may have responsibility for
182 the affairs of the residents; and individual resident care plans
183 including, but not limited to, prescribed services, service
184 frequency and duration, and service goals. The records shall be
185 open to inspection by the agency.

186 (11) Keep such fiscal records of its operations and
187 conditions as may be necessary to provide information pursuant
188 to this part.

189 (12) Furnish copies of personnel records for employees
190 affiliated with such facility, to any other facility licensed by
191 this state requesting this information pursuant to this part.
192 Such information contained in the records may include, but is
193 not limited to, disciplinary matters and any reason for
194 termination. Any facility releasing such records pursuant to
195 this part shall be considered to be acting in good faith and may

196 not be held liable for information contained in such records,
197 absent a showing that the facility maliciously falsified such
198 records.

199 (13) Publicly display a poster provided by the agency
200 containing the names, addresses, and telephone numbers for the
201 state's abuse hotline, the State Long-Term Care Ombudsman, the
202 Agency for Health Care Administration consumer hotline, the
203 Advocacy Center for Persons with Disabilities, the Florida
204 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
205 with a clear description of the assistance to be expected from
206 each.

207 (14) Submit to the agency the information specified in s.
208 400.071(2)(e) for a management company within 30 days after the
209 effective date of the management agreement.

210 (15) Submit semiannually to the agency, or more frequently
211 if requested by the agency, information regarding facility
212 staff-to-resident ratios, staff turnover, and staff stability,
213 including information regarding certified nursing assistants,
214 licensed nurses, the director of nursing, and the facility
215 administrator. For purposes of this reporting:

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

220 (b) Staff turnover must be reported for the most recent
221 12-month period ending on the last workday of the most recent
222 calendar quarter prior to the date the information is submitted.
223 The turnover rate must be computed quarterly, with the annual

224 rate being the cumulative sum of the quarterly rates. The
225 turnover rate is the total number of terminations or separations
226 experienced during the quarter, excluding any employee
227 terminated during a probationary period of 3 months or less,
228 divided by the total number of staff employed at the end of the
229 period for which the rate is computed, and expressed as a
230 percentage.

231 (c) The formula for determining staff stability is the
232 total number of employees that have been employed for more than
233 12 months, divided by the total number of employees employed at
234 the end of the most recent calendar quarter, and expressed as a
235 percentage.

236 (d) A nursing facility that has failed to comply with
237 state minimum-staffing requirements for 2 consecutive days is
238 prohibited from accepting new admissions until the facility has
239 achieved the minimum-staffing requirements for a period of 6
240 consecutive days. For the purposes of this paragraph, any person
241 who was a resident of the facility and was absent from the
242 facility for the purpose of receiving medical care at a separate
243 location or was on a leave of absence is not considered a new
244 admission. Failure to impose such an admissions moratorium
245 constitutes a class II deficiency.

246 (e) A nursing facility which does not have a conditional
247 license may be cited for failure to comply with the standards in
248 s. 400.23(3)(a)1.a. only if it has failed to meet those
249 standards on 2 consecutive days or if it has failed to meet at
250 least 97 percent of those standards on any one day.

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

253
 254 Nothing in this section shall limit the agency's ability to
 255 impose a deficiency or take other actions if a facility does not
 256 have enough staff to meet the residents' needs.

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

260 (17) Notify a licensed physician when a resident exhibits
 261 signs of dementia or cognitive impairment or has a change of
 262 condition in order to rule out the presence of an underlying
 263 physiological condition that may be contributing to such
 264 dementia or impairment. The notification must occur within 30
 265 days after the acknowledgment of such signs by facility staff.
 266 If an underlying condition is determined to exist, the facility
 267 shall arrange, with the appropriate health care provider, the
 268 necessary care and services to treat the condition.

269 (18) If the facility implements a dining and hospitality
 270 attendant program, ensure that the program is developed and
 271 implemented under the supervision of the facility director of
 272 nursing. A licensed nurse, licensed speech or occupational
 273 therapist, or a registered dietitian must conduct training of
 274 dining and hospitality attendants. A person employed by a
 275 facility as a dining and hospitality attendant must perform
 276 tasks under the direct supervision of a licensed nurse.

277 (19) Report to the agency any filing for bankruptcy
 278 protection by the facility or its parent corporation,

279 | divestiture or spin-off of its assets, or corporate
280 | reorganization within 30 days after the completion of such
281 | activity.

282 | (20) Maintain general and professional liability insurance
283 | coverage that is in force at all times. In lieu of general and
284 | professional liability insurance coverage, a state-designated
285 | teaching nursing home and its affiliated assisted living
286 | facilities created under s. 430.80 may demonstrate proof of
287 | financial responsibility as provided in s. 430.80(3)(h).

288 | (21) Maintain in the medical record for each resident a
289 | daily chart of certified nursing assistant services provided to
290 | the resident. The certified nursing assistant who is caring for
291 | the resident must complete this record by the end of his or her
292 | shift. This record must indicate assistance with activities of
293 | daily living, assistance with eating, and assistance with
294 | drinking, and must record each offering of nutrition and
295 | hydration for those residents whose plan of care or assessment
296 | indicates a risk for malnutrition or dehydration.

297 | (22) Before November 30 of each year, subject to the
298 | availability of an adequate supply of the necessary vaccine,
299 | provide for immunizations against influenza viruses to all its
300 | consenting residents in accordance with the recommendations of
301 | the United States Centers for Disease Control and Prevention,
302 | subject to exemptions for medical contraindications and
303 | religious or personal beliefs. Subject to these exemptions, any
304 | consenting person who becomes a resident of the facility after
305 | November 30 but before March 31 of the following year must be
306 | immunized within 5 working days after becoming a resident.

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307 Immunization shall not be provided to any resident who provides
308 documentation that he or she has been immunized as required by
309 this subsection. This subsection does not prohibit a resident
310 from receiving the immunization from his or her personal
311 physician if he or she so chooses. A resident who chooses to
312 receive the immunization from his or her personal physician
313 shall provide proof of immunization to the facility. The agency
314 may adopt and enforce any rules necessary to comply with or
315 implement this subsection.

316 (23) Assess all residents for eligibility for pneumococcal
317 polysaccharide vaccination (PPV) and vaccinate residents when
318 indicated within 60 days after the effective date of this act in
319 accordance with the recommendations of the United States Centers
320 for Disease Control and Prevention, subject to exemptions for
321 medical contraindications and religious or personal beliefs.
322 Residents admitted after the effective date of this act shall be
323 assessed within 5 working days of admission and, when indicated,
324 vaccinated within 60 days in accordance with the recommendations
325 of the United States Centers for Disease Control and Prevention,
326 subject to exemptions for medical contraindications and
327 religious or personal beliefs. Immunization shall not be
328 provided to any resident who provides documentation that he or
329 she has been immunized as required by this subsection. This
330 subsection does not prohibit a resident from receiving the
331 immunization from his or her personal physician if he or she so
332 chooses. A resident who chooses to receive the immunization from
333 his or her personal physician shall provide proof of

334 immunization to the facility. The agency may adopt and enforce
 335 any rules necessary to comply with or implement this subsection.

336 (24) Annually encourage and promote to its employees the
 337 benefits associated with immunizations against influenza viruses
 338 in accordance with the recommendations of the United States
 339 Centers for Disease Control and Prevention. The agency may adopt
 340 and enforce any rules necessary to comply with or implement this
 341 subsection.

342
 343 Every facility with a standard license ~~Facilities that have been~~
 344 ~~awarded a Gold Seal under the program established in s. 400.235~~
 345 may develop a plan to provide certified nursing assistant
 346 training as prescribed by federal regulations and state rules
 347 and may apply to the agency for approval of its ~~their~~ program.

348 Section 3. Subsections (9) through (15) of section
 349 400.147, Florida Statutes, are renumbered as subsections (8)
 350 through (14), respectively, and paragraph (e) of subsection (5),
 351 subsection (7), and present subsection (8) of that section are
 352 amended to read:

353 400.147 Internal risk management and quality assurance
 354 program.--

355 (5) For purposes of reporting to the agency under this
 356 section, the term "adverse incident" means:

357 (e) An event that is reported to law enforcement for
 358 investigation.

359 (7) (a) The facility shall initiate an investigation ~~and~~
 360 ~~shall notify the agency~~ within 1 business day after the risk
 361 manager or his or her designee has received a report pursuant to

362 paragraph (1) (d). ~~The notification must be made in writing and~~
363 ~~be provided electronically, by facsimile device or overnight~~
364 ~~mail delivery. The notification must include information~~
365 ~~regarding the identity of the affected resident, the type of~~
366 ~~adverse incident, the initiation of an investigation by the~~
367 ~~facility, and whether the events causing or resulting in the~~
368 ~~adverse incident represent a potential risk to any other~~
369 ~~resident. The notification is confidential as provided by law~~
370 ~~and is not discoverable or admissible in any civil or~~
371 ~~administrative action, except in disciplinary proceedings by the~~
372 ~~agency or the appropriate regulatory board. The agency may~~
373 ~~investigate, as it deems appropriate, any such incident and~~
374 ~~prescribe measures that must or may be taken in response to the~~
375 ~~incident. The agency shall review each incident and determine~~
376 ~~whether it potentially involved conduct by the health care~~
377 ~~professional who is subject to disciplinary action, in which~~
378 ~~case the provisions of s. 456.073 shall apply.~~

379 (b) ~~(8)~~ ~~(a)~~ Each facility shall complete the investigation
380 and submit an adverse incident report to the agency for each
381 adverse incident within 15 calendar days after its occurrence.
382 If, after a complete investigation, the risk manager determines
383 that the incident was ~~not~~ an adverse incident as defined in
384 subsection (5), the facility shall include this information in
385 the report. The agency shall develop a form for reporting this
386 information.

387 (c) ~~(b)~~ The information reported to the agency pursuant to
388 paragraph (b) ~~that~~ ~~(a)~~ ~~which~~ relates to persons licensed under
389 chapter 458, chapter 459, chapter 461, or chapter 466 shall be

390 reviewed by the agency. The agency shall determine whether any
 391 of the incidents potentially involved conduct by a health care
 392 professional who is subject to disciplinary action, in which
 393 case the provisions of s. 456.073 shall apply.

394 (d)~~(e)~~ The report submitted to the agency must also
 395 contain the name of the risk manager of the facility.

396 (e)~~(d)~~ The adverse incident report is confidential as
 397 provided by law and is not discoverable or admissible in any
 398 civil or administrative action, except in disciplinary
 399 proceedings by the agency or the appropriate regulatory board.

400 Section 4. Subsection (3) of section 400.19, Florida
 401 Statutes, is amended to read:

402 400.19 Right of entry and inspection.--

403 (3) The agency shall every 15 months conduct at least one
 404 unannounced inspection to determine compliance by the licensee
 405 with statutes, and with rules promulgated under the provisions
 406 of those statutes, governing minimum standards of construction,
 407 quality and adequacy of care, and rights of residents. The
 408 survey shall be conducted every 6 months for the next 2-year
 409 period if the facility has been cited for a class I deficiency,
 410 has been cited for two or more class II deficiencies arising
 411 from separate surveys or investigations within a 60-day period,
 412 or has had three or more substantiated complaints within a 6-
 413 month period, each resulting in at least one class I or class II
 414 deficiency. In addition to any other fees or fines in this part,
 415 the agency shall assess a fine for each facility that is subject
 416 to the 6-month survey cycle. The fine for the 2-year period
 417 shall be \$6,000, one-half to be paid at the completion of each

418 survey. The agency may adjust this fine by the change in the
419 Consumer Price Index, based on the 12 months immediately
420 preceding the increase, to cover the cost of the additional
421 surveys. In the event such deficiencies are overturned as the
422 result of administrative action but additional surveys have
423 already been conducted pursuant to this section, the most recent
424 survey shall be considered an annual survey for purposes of
425 future survey scheduling. The agency shall verify through
426 subsequent inspection that any deficiency identified during the
427 annual inspection is corrected. However, the agency may verify
428 the correction of a class III or class IV deficiency unrelated
429 to resident rights or resident care without reinspecting the
430 facility if adequate written documentation has been received
431 from the facility, which provides assurance that the deficiency
432 has been corrected. The giving or causing to be given of advance
433 notice of such unannounced inspections by an employee of the
434 agency to any unauthorized person shall constitute cause for
435 suspension of not fewer than 5 working days according to the
436 provisions of chapter 110.

437 Section 5. Paragraph (d) of subsection (1) of section
438 400.195, Florida Statutes, is amended to read:

439 400.195 Agency reporting requirements.--

440 (1) For the period beginning June 30, 2001, and ending
441 June 30, 2005, the Agency for Health Care Administration shall
442 provide a report to the Governor, the President of the Senate,
443 and the Speaker of the House of Representatives with respect to
444 nursing homes. The first report shall be submitted no later than
445 December 30, 2002, and subsequent reports shall be submitted

446 every 6 months thereafter. The report shall identify facilities
 447 based on their ownership characteristics, size, business
 448 structure, for-profit or not-for-profit status, and any other
 449 characteristics the agency determines useful in analyzing the
 450 varied segments of the nursing home industry and shall report:

451 (d) Information regarding deficiencies cited, including
 452 information used to develop the Nursing Home Guide WATCH LIST
 453 pursuant to s. 400.191, and applicable rules, a summary of data
 454 generated on nursing homes by Centers for Medicare and Medicaid
 455 Services Nursing Home Quality Information Project, and
 456 information collected pursuant to s. 400.147(8)~~(9)~~, relating to
 457 litigation.

458 Section 6. Paragraph (a) of subsection (3), paragraphs (b)
 459 and (e) of subsection (7), and subsection (8) of section 400.23,
 460 Florida Statutes, are amended to read:

461 400.23 Rules; evaluation and deficiencies; licensure
 462 status.--

463 (3)(a)1. The agency shall adopt rules providing minimum
 464 staffing requirements for nursing homes. These requirements
 465 shall include, for each nursing home facility:

466 a. A minimum certified nursing assistant staffing of 2.6
 467 hours of direct care per resident per day beginning January 1,
 468 2003, and increasing to 2.7 hours of direct care per resident
 469 per day beginning January 1, 2007. Beginning January 1, 2002, no
 470 facility shall staff below one certified nursing assistant per
 471 20 residents, and a minimum licensed nursing staffing of 1.0
 472 hour of direct care per resident per day but never below one
 473 licensed nurse per 40 residents.

474 b. Beginning January 1, 2007, a minimum weekly average
475 certified nursing assistant staffing of 2.9 hours of direct care
476 per resident per day. For the purpose of this sub-subparagraph,
477 a week is defined as Sunday through Saturday.

478 2. Nursing assistants employed under s. 400.211(2) may be
479 included in computing the staffing ratio for certified nursing
480 assistants only if their job responsibilities include only
481 nursing-assistant-related duties.

482 3. Each nursing home must document compliance with
483 staffing standards as required under this paragraph and post
484 daily the names of staff on duty for the benefit of facility
485 residents and the public. Compliance with federal posting
486 requirements shall satisfy the posting requirements of this
487 subparagraph.

488 4. The agency shall recognize the use of licensed nurses
489 for compliance with minimum staffing requirements for certified
490 nursing assistants, provided that the facility otherwise meets
491 the minimum staffing requirements for licensed nurses and that
492 the licensed nurses are performing the duties of a certified
493 nursing assistant. Unless otherwise approved by the agency,
494 licensed nurses counted toward the minimum staffing requirements
495 for certified nursing assistants must exclusively perform the
496 duties of a certified nursing assistant for the entire shift and
497 not also be counted toward the minimum staffing requirements for
498 licensed nurses. If the agency approved a facility's request to
499 use a licensed nurse to perform both licensed nursing and
500 certified nursing assistant duties, the facility must allocate
501 the amount of staff time specifically spent on certified nursing

502 assistant duties for the purpose of documenting compliance with
503 minimum staffing requirements for certified and licensed nursing
504 staff. In no event may the hours of a licensed nurse with dual
505 job responsibilities be counted twice.

506 (7) The agency shall, at least every 15 months, evaluate
507 all nursing home facilities and make a determination as to the
508 degree of compliance by each licensee with the established rules
509 adopted under this part as a basis for assigning a licensure
510 status to that facility. The agency shall base its evaluation on
511 the most recent inspection report, taking into consideration
512 findings from other official reports, surveys, interviews,
513 investigations, and inspections. The agency shall assign a
514 licensure status of standard or conditional to each nursing
515 home.

516 (b) A conditional licensure status means that a facility,
517 due to the presence of one or more class I or class II
518 deficiencies, or class III deficiencies not corrected within the
519 time established by the agency, is not in substantial compliance
520 at the time of the survey with criteria established under this
521 part or with rules adopted by the agency. If the facility has no
522 class I, class II, or uncorrected class III deficiencies at the
523 time of the followup survey, a standard licensure status shall
524 ~~may~~ be assigned.

525 (e) Each licensee shall post its license issued pursuant
526 to final agency action in a prominent place that is in clear and
527 unobstructed public view at or near the place where residents
528 are being admitted to the facility.

529 (8) The agency shall adopt rules to provide that, when the
530 criteria established under subsection (2) are not met, such
531 deficiencies shall be classified according to the nature and the
532 scope of the deficiency. The scope shall be cited as isolated,
533 patterned, or widespread. An isolated deficiency is a deficiency
534 affecting one or a very limited number of residents, or
535 involving one or a very limited number of staff, or a situation
536 that occurred only occasionally or in a very limited number of
537 locations. A patterned deficiency is a deficiency where more
538 than a very limited number of residents are affected, or more
539 than a very limited number of staff are involved, or the
540 situation has occurred in several locations, or the same
541 resident or residents have been affected by repeated occurrences
542 of the same deficient practice but the effect of the deficient
543 practice is not found to be pervasive throughout the facility. A
544 widespread deficiency is a deficiency in which the problems
545 causing the deficiency are pervasive in the facility or
546 represent systemic failure that has affected or has the
547 potential to affect a large portion of the facility's residents.
548 The agency shall indicate the classification on the face of the
549 notice of deficiencies as follows:

550 (a) A class I deficiency is a deficiency that the agency
551 determines presents a situation in which immediate corrective
552 action is necessary because the facility's noncompliance creates
553 immediate jeopardy to the health or safety of a resident. For
554 purposes of this subsection, "immediate jeopardy" means that the
555 licensee's noncompliance has caused, or is likely to cause,
556 serious injury, harm, impairment, or death to a resident

557 receiving care in a facility. The condition or practice
558 constituting a class I violation shall be abated or eliminated
559 immediately, unless a fixed period of time, as determined by the
560 agency, is required for correction. A class I deficiency is
561 subject to a civil penalty of \$10,000 for an isolated
562 deficiency, \$12,500 for a patterned deficiency, and \$15,000 for
563 a widespread deficiency. The fine amount shall be doubled for
564 each deficiency if the facility was previously cited for one or
565 more class I or class II deficiencies during the last annual
566 inspection or any inspection or complaint investigation since
567 the last annual inspection. A fine must be levied
568 notwithstanding the correction of the deficiency.

569 (b) A class II deficiency is a deficiency that the agency
570 determines has caused actual harm to a resident but did not
571 create immediate jeopardy ~~compromised the resident's ability to~~
572 ~~maintain or reach his or her highest practicable physical,~~
573 ~~mental, and psychosocial well being, as defined by an accurate~~
574 ~~and comprehensive resident assessment, plan of care, and~~
575 ~~provision of services.~~ A class II deficiency is subject to a
576 civil penalty of \$2,500 for an isolated deficiency, \$5,000 for a
577 patterned deficiency, and \$7,500 for a widespread deficiency.
578 The fine amount shall be doubled for each deficiency if the
579 facility was previously cited for one or more class I or class
580 II deficiencies during the last annual inspection or any
581 inspection or complaint investigation since the last annual
582 inspection. A fine shall be levied notwithstanding the
583 correction of the deficiency.

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584 (c) A class III deficiency is a deficiency that the agency
585 determines has not caused actual harm to a resident and did not
586 create immediate jeopardy but presents the potential for more
587 than minimal harm ~~will result in no more than minimal physical,~~
588 ~~mental, or psychosocial discomfort to the resident or has the~~
589 ~~potential to compromise the resident's ability to maintain or~~
590 ~~reach his or her highest practical physical, mental, or~~
591 ~~psychosocial well-being, as defined by an accurate and~~
592 ~~comprehensive resident assessment, plan of care, and provision~~
593 ~~of services.~~ A class III deficiency is subject to a civil
594 penalty of \$1,000 for an isolated deficiency, \$2,000 for a
595 patterned deficiency, and \$3,000 for a widespread deficiency.
596 The fine amount shall be doubled for each deficiency if the
597 facility was previously cited for one or more class I or class
598 II deficiencies during the last annual inspection or any
599 inspection or complaint investigation since the last annual
600 inspection. A citation for a class III deficiency must specify
601 the time within which the deficiency is required to be
602 corrected. If a class III deficiency is corrected within the
603 time specified, no civil penalty shall be imposed.

604 (d) A class IV deficiency is a deficiency that the agency
605 determines has the potential for causing no more than minimal
606 harm to a ~~minor negative impact on the~~ resident. If the class IV
607 deficiency is isolated, no plan of correction is required.

608 Section 7. This act shall take effect July 1, 2007.