

By the Committee on Health Regulation; and Senator Bennett

588-1985-07

1 A bill to be entitled

2 An act relating to nursing facilities; amending

3 s. 400.118, F.S.; revising the frequency of

4 visits to nursing facilities by quality-of-care

5 monitors from the Agency for Health Care

6 Administration; amending s. 400.141, F.S.;

7 authorizing certain licensed nursing facilities

8 to develop a plan to provide certain training

9 for nursing assistants; amending s. 400.147,

10 F.S.; redefining the term "adverse incident";

11 deleting the requirement that a nursing

12 facility notify the agency of an adverse

13 incident; deleting notification requirements;

14 requiring that a risk manager determine if an

15 incident was an adverse incident; amending s.

16 400.19, F.S.; providing that the most recent

17 survey is a licensure survey under certain

18 conditions for purposes of future survey

19 scheduling; amending s. 400.195, F.S.;

20 conforming a cross-reference; amending s.

21 400.23, F.S.; requiring that federal posting

22 requirements for staffing standards comply with

23 state posting requirements; providing an

24 effective date.

25

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

27

28 Section 1. Paragraph (a) of subsection (2) of section

29 400.118, Florida Statutes, is amended to read:

30 400.118 Quality assurance; early warning system;

31 monitoring; rapid response teams.--

1 (2)(a) The agency shall establish within each district
2 office one or more quality-of-care monitors, based on the
3 number of nursing facilities in the district, to monitor all
4 nursing facilities in the district on a regular, unannounced,
5 aperiodic basis, including nights, evenings, weekends, and
6 holidays. Quality-of-care monitors shall visit each nursing
7 facility annually, shall visit each conditionally licensed
8 nursing facility at least quarterly, and shall visit other
9 facilities as directed by the agency. Priority for additional
10 monitoring visits shall be given to nursing facilities that
11 have with a history of resident care deficiencies.
12 Quality-of-care monitors shall be registered nurses who are
13 trained and experienced in nursing facility regulation,
14 standards of practice in long-term care, and evaluation of
15 patient care. Individuals in these positions ~~may shall~~ not be
16 deployed by the agency as a part of the district survey team
17 in the conduct of routine, scheduled surveys, but shall
18 function solely and independently as quality-of-care monitors.
19 Quality-of-care monitors shall assess the overall quality of
20 life in the nursing facility and shall assess specific
21 conditions in the facility directly related to resident care,
22 including the operations of internal quality improvement and
23 risk management programs and adverse incident reports. The
24 quality-of-care monitor shall include in an assessment visit
25 observation of the care and services rendered to residents and
26 formal and informal interviews with residents, family members,
27 facility staff, resident guests, volunteers, other regulatory
28 staff, and representatives of a long-term care ombudsman
29 council or Florida advocacy council.
30 Section 2. Section 400.141, Florida Statutes, is
31 amended to read:

1 400.141 Administration and management of nursing home
2 facilities.--Every licensed facility shall comply with all
3 applicable standards and rules of the agency and shall:

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

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

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

12 (4) Provide for resident use of a community pharmacy
13 as specified in s. 400.022(1)(q). Any other law to the
14 contrary notwithstanding, a registered pharmacist licensed in
15 Florida, that is under contract with a facility licensed under
16 this chapter or chapter 429, shall repackage a nursing
17 facility resident's bulk prescription medication which has
18 been packaged by another pharmacist licensed in any state in
19 the United States into a unit dose system compatible with the
20 system used by the nursing facility, if the pharmacist is
21 requested to offer such service. In order to be eligible for
22 the repackaging, a resident or the resident's spouse must
23 receive prescription medication benefits provided through a
24 former employer as part of his or her retirement benefits, a
25 qualified pension plan as specified in s. 4972 of the Internal
26 Revenue Code, a federal retirement program as specified under
27 5 C.F.R. s. 831, or a long-term care policy as defined in s.
28 627.9404(1). A pharmacist who correctly repackages and
29 relabels the medication and the nursing facility which
30 correctly administers such repackaged medication under the
31 provisions of this subsection shall not be held liable in any

1 | civil or administrative action arising from the repackaging.
2 | In order to be eligible for the repackaging, a nursing
3 | facility resident for whom the medication is to be repackaged
4 | shall sign an informed consent form provided by the facility
5 | which includes an explanation of the repackaging process and
6 | which notifies the resident of the immunities from liability
7 | provided herein. A pharmacist who repackages and relabels
8 | prescription medications, as authorized under this subsection,
9 | may charge a reasonable fee for costs resulting from the
10 | implementation of this provision.

11 | (5) Provide for the access of the facility residents
12 | to dental and other health-related services, recreational
13 | services, rehabilitative services, and social work services
14 | appropriate to their needs and conditions and not directly
15 | furnished by the licensee. When a geriatric outpatient nurse
16 | clinic is conducted in accordance with rules adopted by the
17 | agency, outpatients attending such clinic shall not be counted
18 | as part of the general resident population of the nursing home
19 | facility, nor shall the nursing staff of the geriatric
20 | outpatient clinic be counted as part of the nursing staff of
21 | the facility, until the outpatient clinic load exceeds 15 a
22 | day.

23 | (6) Be allowed and encouraged by the agency to provide
24 | other needed services under certain conditions. If the
25 | facility has a standard licensure status, and has had no class
26 | I or class II deficiencies during the past 2 years or has been
27 | awarded a Gold Seal under the program established in s.
28 | 400.235, it may be encouraged by the agency to provide
29 | services, including, but not limited to, respite and adult day
30 | services, which enable individuals to move in and out of the
31 | facility. A facility is not subject to any additional

1 licensure requirements for providing these services. Respite
2 care may be offered to persons in need of short-term or
3 temporary nursing home services. Respite care must be provided
4 in accordance with this part and rules adopted by the agency.
5 However, the agency shall, by rule, adopt modified
6 requirements for resident assessment, resident care plans,
7 resident contracts, physician orders, and other provisions, as
8 appropriate, for short-term or temporary nursing home
9 services. The agency shall allow for shared programming and
10 staff in a facility which meets minimum standards and offers
11 services pursuant to this subsection, but, if the facility is
12 cited for deficiencies in patient care, may require additional
13 staff and programs appropriate to the needs of service
14 recipients. A person who receives respite care may not be
15 counted as a resident of the facility for purposes of the
16 facility's licensed capacity unless that person receives
17 24-hour respite care. A person receiving either respite care
18 for 24 hours or longer or adult day services must be included
19 when calculating minimum staffing for the facility. Any costs
20 and revenues generated by a nursing home facility from
21 nonresidential programs or services shall be excluded from the
22 calculations of Medicaid per diems for nursing home
23 institutional care reimbursement.

24 (7) If the facility has a standard license or is a
25 Gold Seal facility, exceeds the minimum required hours of
26 licensed nursing and certified nursing assistant direct care
27 per resident per day, and is part of a continuing care
28 facility licensed under chapter 651 or a retirement community
29 that offers other services pursuant to part III of this
30 chapter or part I or part III of chapter 429 on a single
31 campus, be allowed to share programming and staff. At the time

1 of inspection and in the semiannual report required pursuant
2 to subsection (15), a continuing care facility or retirement
3 community that uses this option must demonstrate through
4 staffing records that minimum staffing requirements for the
5 facility were met. Licensed nurses and certified nursing
6 assistants who work in the nursing home facility may be used
7 to provide services elsewhere on campus if the facility
8 exceeds the minimum number of direct care hours required per
9 resident per day and the total number of residents receiving
10 direct care services from a licensed nurse or a certified
11 nursing assistant does not cause the facility to violate the
12 staffing ratios required under s. 400.23(3)(a). Compliance
13 with the minimum staffing ratios shall be based on total
14 number of residents receiving direct care services, regardless
15 of where they reside on campus. If the facility receives a
16 conditional license, it may not share staff until the
17 conditional license status ends. This subsection does not
18 restrict the agency's authority under federal or state law to
19 require additional staff if a facility is cited for
20 deficiencies in care which are caused by an insufficient
21 number of certified nursing assistants or licensed nurses. The
22 agency may adopt rules for the documentation necessary to
23 determine compliance with this provision.

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

26 (9) If the licensee furnishes food service, provide a
27 wholesome and nourishing diet sufficient to meet generally
28 accepted standards of proper nutrition for its residents and
29 provide such therapeutic diets as may be prescribed by
30 attending physicians. In making rules to implement this
31 subsection, the agency shall be guided by standards

1 recommended by nationally recognized professional groups and
2 associations with knowledge of dietetics.

3 (10) Keep full records of resident admissions and
4 discharges; medical and general health status, including
5 medical records, personal and social history, and identity and
6 address of next of kin or other persons who may have
7 responsibility for the affairs of the residents; and
8 individual resident care plans including, but not limited to,
9 prescribed services, service frequency and duration, and
10 service goals. The records shall be open to inspection by the
11 agency.

12 (11) Keep such fiscal records of its operations and
13 conditions as may be necessary to provide information pursuant
14 to this part.

15 (12) Furnish copies of personnel records for employees
16 affiliated with such facility, to any other facility licensed
17 by this state requesting this information pursuant to this
18 part. Such information contained in the records may include,
19 but is not limited to, disciplinary matters and any reason for
20 termination. Any facility releasing such records pursuant to
21 this part shall be considered to be acting in good faith and
22 may not be held liable for information contained in such
23 records, absent a showing that the facility maliciously
24 falsified such records.

25 (13) Publicly display a poster provided by the agency
26 containing the names, addresses, and telephone numbers for the
27 state's abuse hotline, the State Long-Term Care Ombudsman, the
28 Agency for Health Care Administration consumer hotline, the
29 Advocacy Center for Persons with Disabilities, the Florida
30 Statewide Advocacy Council, and the Medicaid Fraud Control
31

1 Unit, with a clear description of the assistance to be
2 expected from each.

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

6 (15) Submit semiannually to the agency, or more
7 frequently if requested by the agency, information regarding
8 facility staff-to-resident ratios, staff turnover, and staff
9 stability, including information regarding certified nursing
10 assistants, licensed nurses, the director of nursing, and the
11 facility administrator. For purposes of this reporting:

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

16 (b) Staff turnover must be reported for the most
17 recent 12-month period ending on the last workday of the most
18 recent calendar quarter prior to the date the information is
19 submitted. The turnover rate must be computed quarterly, with
20 the annual rate being the cumulative sum of the quarterly
21 rates. The turnover rate is the total number of terminations
22 or separations experienced during the quarter, excluding any
23 employee terminated during a probationary period of 3 months
24 or less, divided by the total number of staff employed at the
25 end of the period for which the rate is computed, and
26 expressed as a percentage.

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

1 (d) A nursing facility that has failed to comply with
2 state minimum-staffing requirements for 2 consecutive days is
3 prohibited from accepting new admissions until the facility
4 has achieved the minimum-staffing requirements for a period of
5 6 consecutive days. For the purposes of this paragraph, any
6 person who was a resident of the facility and was absent from
7 the facility for the purpose of receiving medical care at a
8 separate location or was on a leave of absence is not
9 considered a new admission. Failure to impose such an
10 admissions moratorium constitutes a class II deficiency.

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

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

19
20 Nothing in this section shall limit the agency's ability to
21 impose a deficiency or take other actions if a facility does
22 not have enough staff to meet the residents' needs.

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

26 (17) Notify a licensed physician when a resident
27 exhibits signs of dementia or cognitive impairment or has a
28 change of condition in order to rule out the presence of an
29 underlying physiological condition that may be contributing to
30 such dementia or impairment. The notification must occur
31 within 30 days after the acknowledgment of such signs by

1 facility staff. If an underlying condition is determined to
2 exist, the facility shall arrange, with the appropriate health
3 care provider, the necessary care and services to treat the
4 condition.

5 (18) If the facility implements a dining and
6 hospitality attendant program, ensure that the program is
7 developed and implemented under the supervision of the
8 facility director of nursing. A licensed nurse, licensed
9 speech or occupational therapist, or a registered dietitian
10 must conduct training of dining and hospitality attendants. A
11 person employed by a facility as a dining and hospitality
12 attendant must perform tasks under the direct supervision of a
13 licensed nurse.

14 (19) Report to the agency any filing for bankruptcy
15 protection by the facility or its parent corporation,
16 divestiture or spin-off of its assets, or corporate
17 reorganization within 30 days after the completion of such
18 activity.

19 (20) Maintain general and professional liability
20 insurance coverage that is in force at all times. In lieu of
21 general and professional liability insurance coverage, a
22 state-designated teaching nursing home and its affiliated
23 assisted living facilities created under s. 430.80 may
24 demonstrate proof of financial responsibility as provided in
25 s. 430.80(3)(h).

26 (21) Maintain in the medical record for each resident
27 a daily chart of certified nursing assistant services provided
28 to the resident. The certified nursing assistant who is caring
29 for the resident must complete this record by the end of his
30 or her shift. This record must indicate assistance with
31 activities of daily living, assistance with eating, and

1 assistance with drinking, and must record each offering of
2 nutrition and hydration for those residents whose plan of care
3 or assessment indicates a risk for malnutrition or
4 dehydration.

5 (22) Before November 30 of each year, subject to the
6 availability of an adequate supply of the necessary vaccine,
7 provide for immunizations against influenza viruses to all its
8 consenting residents in accordance with the recommendations of
9 the United States Centers for Disease Control and Prevention,
10 subject to exemptions for medical contraindications and
11 religious or personal beliefs. Subject to these exemptions,
12 any consenting person who becomes a resident of the facility
13 after November 30 but before March 31 of the following year
14 must be immunized within 5 working days after becoming a
15 resident. Immunization shall not be provided to any resident
16 who provides documentation that he or she has been immunized
17 as required by this subsection. This subsection does not
18 prohibit a resident from receiving the immunization from his
19 or her personal physician if he or she so chooses. A resident
20 who chooses to receive the immunization from his or her
21 personal physician shall provide proof of immunization to the
22 facility. The agency may adopt and enforce any rules necessary
23 to comply with or implement this subsection.

24 (23) Assess all residents for eligibility for
25 pneumococcal polysaccharide vaccination (PPV) and vaccinate
26 residents when indicated within 60 days after the effective
27 date of this act in accordance with the recommendations of the
28 United States Centers for Disease Control and Prevention,
29 subject to exemptions for medical contraindications and
30 religious or personal beliefs. Residents admitted after the
31 effective date of this act shall be assessed within 5 working

1 | days of admission and, when indicated, vaccinated within 60
2 | days in accordance with the recommendations of the United
3 | States Centers for Disease Control and Prevention, subject to
4 | exemptions for medical contraindications and religious or
5 | personal beliefs. Immunization shall not be provided to any
6 | resident who provides documentation that he or she has been
7 | immunized as required by this subsection. This subsection does
8 | not prohibit a resident from receiving the immunization from
9 | his or her personal physician if he or she so chooses. A
10 | resident who chooses to receive the immunization from his or
11 | her personal physician shall provide proof of immunization to
12 | the facility. The agency may adopt and enforce any rules
13 | necessary to comply with or implement this subsection.

14 | (24) Annually encourage and promote to its employees
15 | the benefits associated with immunizations against influenza
16 | viruses in accordance with the recommendations of the United
17 | States Centers for Disease Control and Prevention. The agency
18 | may adopt and enforce any rules necessary to comply with or
19 | implement this subsection.

20 |
21 | Facilities having a standard license ~~that have been awarded a~~
22 | ~~Gold Seal under the program established in s. 400.235~~ may
23 | develop a plan to provide certified nursing assistant training
24 | as prescribed by federal regulations and state rules and may
25 | apply to the agency for approval of their program.

26 | Section 3. Subsections (5) through (15) of section
27 | 400.147, Florida Statutes, are amended to read:

28 | 400.147 Internal risk management and quality assurance
29 | program.--

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

1 (a) An event over which facility personnel could
2 exercise control and which is associated in whole or in part
3 with the facility's intervention, rather than the condition
4 for which such intervention occurred, and which results in one
5 of the following:

6 1. Death;
7 2. Brain or spinal damage;
8 3. Permanent disfigurement;
9 4. Fracture or dislocation of bones or joints;
10 5. A limitation of neurological, physical, or sensory
11 function;

12 6. Any condition that required medical attention to
13 which the resident has not given his or her informed consent,
14 including failure to honor advanced directives; or

15 7. Any condition that required the transfer of the
16 resident, within or outside the facility, to a unit providing
17 a more acute level of care due to the adverse incident, rather
18 than the resident's condition prior to the adverse incident;

19 (b) Abuse, neglect, or exploitation as defined in s.
20 415.102;

21 (c) Abuse, neglect and harm as defined in s. 39.01;

22 (d) Resident elopement; or

23 (e) An event that is reported to a law enforcement
24 agency for investigation.

25 (6) The internal risk manager of each licensed
26 facility shall:

27 (a) Investigate every allegation of sexual misconduct
28 which is made against a member of the facility's personnel who
29 has direct patient contact when the allegation is that the
30 sexual misconduct occurred at the facility or at the grounds
31 of the facility;

1 (b) Report every allegation of sexual misconduct to
2 the administrator of the licensed facility; and

3 (c) Notify the resident representative or guardian of
4 the victim that an allegation of sexual misconduct has been
5 made and that an investigation is being conducted.

6 (7)(a) The facility shall initiate an investigation
7 ~~and shall notify the agency~~ within 1 business day after the
8 risk manager or his or her designee has received a report
9 pursuant to paragraph (1)(d). ~~The notification must be made in~~
10 ~~writing and be provided electronically, by facsimile device or~~
11 ~~overnight mail delivery. The notification must include~~
12 ~~information regarding the identity of the affected resident,~~
13 ~~the type of adverse incident, the initiation of an~~
14 ~~investigation by the facility, and whether the events causing~~
15 ~~or resulting in the adverse incident represent a potential~~
16 ~~risk to any other resident. The notification is confidential~~
17 ~~as provided by law and is not discoverable or admissible in~~
18 ~~any civil or administrative action, except in disciplinary~~
19 ~~proceedings by the agency or the appropriate regulatory board.~~
20 ~~The agency may investigate, as it deems appropriate, any such~~
21 ~~incident and prescribe measures that must or may be taken in~~
22 ~~response to the incident. The agency shall review each~~
23 ~~incident and determine whether it potentially involved conduct~~
24 ~~by the health care professional who is subject to disciplinary~~
25 ~~action, in which case the provisions of s. 456.073 shall~~
26 ~~apply.~~

27 (b)(8)(a) Each facility shall complete the
28 investigation and submit an adverse incident report to the
29 agency for each adverse incident within 15 calendar days after
30 its occurrence. If, after a complete investigation, the risk
31 manager determines that the incident was ~~not~~ an adverse

1 incident as defined in subsection (5), the facility shall
2 include this information in the report. The agency shall
3 develop a form for reporting this information.

4 ~~(c)(b)~~ The information reported to the agency pursuant
5 to paragraph ~~(b)(a)~~ which relates to persons licensed under
6 chapter 458, chapter 459, chapter 461, or chapter 466 shall be
7 reviewed by the agency. The agency shall determine whether any
8 of the incidents potentially involved conduct by a health care
9 professional who is subject to disciplinary action, in which
10 case the provisions of s. 456.073 shall apply.

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

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

17 ~~(8)(9)~~ By the 10th of each month, each facility
18 subject to this section shall report any notice received
19 pursuant to s. 400.0233(2) and each initial complaint that was
20 filed with the clerk of the court and served on the facility
21 during the previous month by a resident or a resident's family
22 member, guardian, conservator, or personal legal
23 representative. The report must include the name of the
24 resident, the resident's date of birth and social security
25 number, the Medicaid identification number for
26 Medicaid-eligible persons, the date or dates of the incident
27 leading to the claim or dates of residency, if applicable, and
28 the type of injury or violation of rights alleged to have
29 occurred. Each facility shall also submit a copy of the
30 notices received pursuant to s. 400.0233(2) and complaints
31 filed with the clerk of the court. This report is confidential

1 as provided by law and is not discoverable or admissible in
2 any civil or administrative action, except in such actions
3 brought by the agency to enforce the provisions of this part.

4 ~~(9)~~(10) The agency shall review, as part of its
5 licensure inspection process, the internal risk management and
6 quality assurance program at each facility regulated by this
7 section to determine whether the program meets standards
8 established in statutory laws and rules, is being conducted in
9 a manner designed to reduce adverse incidents, and is
10 appropriately reporting incidents as required by this section.

11 ~~(10)~~(11) There is no monetary liability on the part
12 of, and a cause of action for damages may not arise against,
13 any risk manager for the implementation and oversight of the
14 internal risk management and quality assurance program in a
15 facility licensed under this part as required by this section,
16 or for any act or proceeding undertaken or performed within
17 the scope of the functions of such internal risk management
18 and quality assurance program if the risk manager acts without
19 intentional fraud.

20 ~~(11)~~(12) If the agency, through its receipt of the
21 adverse incident reports prescribed in subsection (7), or
22 through any investigation, has a reasonable belief that
23 conduct by a staff member or employee of a facility is grounds
24 for disciplinary action by the appropriate regulatory board,
25 the agency shall report this fact to the regulatory board.

26 ~~(12)~~(13) The agency may adopt rules to administer this
27 section.

28 ~~(13)~~(14) The agency shall annually submit to the
29 Legislature a report on nursing home adverse incidents. The
30 report must include the following information arranged by
31 county:

1 (a) The total number of adverse incidents.

2 (b) A listing, by category, of the types of adverse
3 incidents, the number of incidents occurring within each
4 category, and the type of staff involved.

5 (c) A listing, by category, of the types of injury
6 caused and the number of injuries occurring within each
7 category.

8 (d) Types of liability claims filed based on an
9 adverse incident or reportable injury.

10 (e) Disciplinary action taken against staff,
11 categorized by type of staff involved.

12 ~~(14)~~~~(15)~~ Information gathered by a credentialing
13 organization under a quality assurance program is not
14 discoverable from the credentialing organization. This
15 subsection does not limit discovery of, access to, or use of
16 facility records, including those records from which the
17 credentialing organization gathered its information.

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

20 400.19 Right of entry and inspection.--

21 (3) The agency shall every 15 months conduct at least
22 one unannounced inspection to determine compliance by the
23 licensee with statutes, and with rules adopted ~~promulgated~~
24 under the provisions of those statutes, governing minimum
25 standards of construction, quality and adequacy of care, and
26 rights of residents. The survey shall be conducted every 6
27 months for the next 2-year period if the facility has been
28 cited for a class I deficiency, has been cited for two or more
29 class II deficiencies arising from separate surveys or
30 investigations within a 60-day period, or has had three or
31 more substantiated complaints within a 6-month period, each

1 resulting in at least one class I or class II deficiency. In
2 addition to any other fees or fines in this part, the agency
3 shall assess a fine for each facility that is subject to the
4 6-month survey cycle. The fine for the 2-year period shall be
5 \$6,000, one-half to be paid at the completion of each survey.
6 The agency may adjust this fine by the change in the Consumer
7 Price Index, based on the 12 months immediately preceding the
8 increase, to cover the cost of the additional surveys. If such
9 deficiencies are overturned as the result of administrative
10 action but additional surveys have already been conducted
11 pursuant to this section, the most recent survey shall be
12 considered a licensure survey for purposes of scheduling
13 future surveys. The agency shall verify through subsequent
14 inspection that any deficiency identified during the annual
15 inspection is corrected. However, the agency may verify the
16 correction of a class III or class IV deficiency unrelated to
17 resident rights or resident care without reinspecting the
18 facility if adequate written documentation has been received
19 from the facility, which provides assurance that the
20 deficiency has been corrected. The giving or causing to be
21 given of advance notice of such unannounced inspections by an
22 employee of the agency to any unauthorized person shall
23 constitute cause for suspension of not fewer than 5 working
24 days according to the provisions of chapter 110.

25 Section 5. Paragraph (d) of subsection (1) of section
26 400.195, Florida Statutes, is amended to read:

27 400.195 Agency reporting requirements.--

28 (1) For the period beginning June 30, 2001, and ending
29 June 30, 2005, the Agency for Health Care Administration shall
30 provide a report to the Governor, the President of the Senate,
31 and the Speaker of the House of Representatives with respect

1 | to nursing homes. The first report shall be submitted no
2 | later than December 30, 2002, and subsequent reports shall be
3 | submitted every 6 months thereafter. The report shall
4 | identify facilities based on their ownership characteristics,
5 | size, business structure, for-profit or not-for-profit status,
6 | and any other characteristics the agency determines useful in
7 | analyzing the varied segments of the nursing home industry and
8 | shall report:

9 | (d) Information regarding deficiencies cited,
10 | including information used to develop the Nursing Home Guide
11 | WATCH LIST pursuant to s. 400.191, and applicable rules, a
12 | summary of data generated on nursing homes by Centers for
13 | Medicare and Medicaid Services Nursing Home Quality
14 | Information Project, and information collected pursuant to s.
15 | 400.147(8) ~~s. 400.147(9)~~, relating to litigation.

16 | Section 6. Paragraph (a) of subsection (3) of section
17 | 400.23, Florida Statutes, is amended to read:

18 | 400.23 Rules; evaluation and deficiencies; licensure
19 | status.--

20 | (3)(a)1. The agency shall adopt rules providing
21 | minimum staffing requirements for nursing homes. These
22 | requirements shall include, for each nursing home facility:

23 | a. A minimum certified nursing assistant staffing of
24 | 2.6 hours of direct care per resident per day beginning
25 | January 1, 2003, and increasing to 2.7 hours of direct care
26 | per resident per day beginning January 1, 2007. Beginning
27 | January 1, 2002, ~~a no facility may not shall~~ staff below one
28 | certified nursing assistant per 20 residents, and must provide
29 | a minimum licensed nursing staffing of 1.0 hour of direct care
30 | per resident per day but never below one licensed nurse per 40
31 | residents.

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

6 2. Nursing assistants employed under s. 400.211(2) may
7 be included in computing the staffing ratio for certified
8 nursing assistants only if their job responsibilities include
9 only nursing-assistant-related duties.

10 3. Each nursing home must document compliance with
11 staffing standards as required under this paragraph and post
12 daily the names of staff on duty for the benefit of facility
13 residents and the public. Compliance with federal posting
14 requirements satisfies the posting requirements in this
15 subparagraph.

16 4. The agency shall recognize the use of licensed
17 nurses for compliance with minimum staffing requirements for
18 certified nursing assistants, provided that the facility
19 otherwise meets the minimum staffing requirements for licensed
20 nurses and that the licensed nurses are performing the duties
21 of a certified nursing assistant. Unless otherwise approved by
22 the agency, licensed nurses counted toward the minimum
23 staffing requirements for certified nursing assistants must
24 exclusively perform the duties of a certified nursing
25 assistant for the entire shift and not also be counted toward
26 the minimum staffing requirements for licensed nurses. If the
27 agency approved a facility's request to use a licensed nurse
28 to perform both licensed nursing and certified nursing
29 assistant duties, the facility must allocate the amount of
30 staff time specifically spent on certified nursing assistant
31 duties for the purpose of documenting compliance with minimum

1 staffing requirements for certified and licensed nursing
2 staff. In no event may the hours of a licensed nurse with dual
3 job responsibilities be counted twice.

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

5
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 682

9 The committee substitute changes the "annual" survey to a
10 "licensure" survey allowing the time frame between surveys to
11 extend to the 15-month period as outlined in the Florida
12 Statutes. The committee substitute deletes the clarification
13 that "uncorrected" class III deficiencies would prevent a
14 nursing facility with a conditional license from getting a
15 standard license. The committee substitute deletes the
16 requirement that a nursing facility post a conditional license
17 after it has been issued by final order. The committee
18 substitute deletes the revised definitions of the various
19 classes of deficiencies.
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