

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; providing for rules
10 relating to agency approval of training
11 programs; amending s. 400.147, F.S.; redefining
12 the term "adverse incident"; deleting the
13 requirement that a nursing facility notify the
14 agency of an adverse incident; deleting
15 notification requirements; requiring that a
16 risk manager determine if an incident was an
17 adverse incident; amending s. 400.19, F.S.;
18 providing that the most recent survey is a
19 licensure survey under certain conditions for
20 purposes of future survey scheduling; amending
21 s. 400.195, F.S.; conforming a cross-reference;
22 amending s. 400.23, F.S.; requiring that
23 federal posting requirements for staffing
24 standards comply with state posting
25 requirements; providing an effective date.

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

28
29 Section 1. Paragraph (a) of subsection (2) of section
30 400.118, Florida Statutes, is amended to read:

31

1 400.118 Quality assurance; early warning system;
2 monitoring; rapid response teams.--

3 (2)(a) The agency shall establish within each district
4 office one or more quality-of-care monitors, based on the
5 number of nursing facilities in the district, to monitor all
6 nursing facilities in the district on a regular, unannounced,
7 aperiodic basis, including nights, evenings, weekends, and
8 holidays. Quality-of-care monitors shall visit each nursing
9 facility annually, shall visit each conditionally licensed
10 nursing facility at least quarterly, and shall visit other
11 facilities as directed by the agency. Priority for additional
12 monitoring visits shall be given to nursing facilities that
13 have with a history of resident care deficiencies.

14 Quality-of-care monitors shall be registered nurses who are
15 trained and experienced in nursing facility regulation,
16 standards of practice in long-term care, and evaluation of
17 patient care. Individuals in these positions may shall not be
18 deployed by the agency as a part of the district survey team
19 in the conduct of routine, scheduled surveys, but shall
20 function solely and independently as quality-of-care monitors.
21 Quality-of-care monitors shall assess the overall quality of
22 life in the nursing facility and shall assess specific
23 conditions in the facility directly related to resident care,
24 including the operations of internal quality improvement and
25 risk management programs and adverse incident reports. The
26 quality-of-care monitor shall include in an assessment visit
27 observation of the care and services rendered to residents and
28 formal and informal interviews with residents, family members,
29 facility staff, resident guests, volunteers, other regulatory
30 staff, and representatives of a long-term care ombudsman
31 council or Florida advocacy council.

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

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

6 (1) Be under the administrative direction and charge
7 of a licensed administrator.

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

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

14 (4) Provide for resident use of a community pharmacy
15 as specified in s. 400.022(1)(q). Any other law to the
16 contrary notwithstanding, a registered pharmacist licensed in
17 Florida, that is under contract with a facility licensed under
18 this chapter or chapter 429, shall repackage a nursing
19 facility resident's bulk prescription medication which has
20 been packaged by another pharmacist licensed in any state in
21 the United States into a unit dose system compatible with the
22 system used by the nursing facility, if the pharmacist is
23 requested to offer such service. In order to be eligible for
24 the repackaging, a resident or the resident's spouse must
25 receive prescription medication benefits provided through a
26 former employer as part of his or her retirement benefits, a
27 qualified pension plan as specified in s. 4972 of the Internal
28 Revenue Code, a federal retirement program as specified under
29 5 C.F.R. s. 831, or a long-term care policy as defined in s.
30 627.9404(1). A pharmacist who correctly repackages and
31 relabels the medication and the nursing facility which

1 correctly administers such repackaged medication under the
2 provisions of this subsection shall not be held liable in any
3 civil or administrative action arising from the repackaging.
4 In order to be eligible for the repackaging, a nursing
5 facility resident for whom the medication is to be repackaged
6 shall sign an informed consent form provided by the facility
7 which includes an explanation of the repackaging process and
8 which notifies the resident of the immunities from liability
9 provided herein. A pharmacist who repackages and relabels
10 prescription medications, as authorized under this subsection,
11 may charge a reasonable fee for costs resulting from the
12 implementation of this provision.

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

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

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

26 (7) If the facility has a standard license or is a
27 Gold Seal facility, exceeds the minimum required hours of
28 licensed nursing and certified nursing assistant direct care
29 per resident per day, and is part of a continuing care
30 facility licensed under chapter 651 or a retirement community
31 that offers other services pursuant to part III of this

1 chapter or part I or part III of chapter 429 on a single
2 campus, be allowed to share programming and staff. At the time
3 of inspection and in the semiannual report required pursuant
4 to subsection (15), a continuing care facility or retirement
5 community that uses this option must demonstrate through
6 staffing records that minimum staffing requirements for the
7 facility were met. Licensed nurses and certified nursing
8 assistants who work in the nursing home facility may be used
9 to provide services elsewhere on campus if the facility
10 exceeds the minimum number of direct care hours required per
11 resident per day and the total number of residents receiving
12 direct care services from a licensed nurse or a certified
13 nursing assistant does not cause the facility to violate the
14 staffing ratios required under s. 400.23(3)(a). Compliance
15 with the minimum staffing ratios shall be based on total
16 number of residents receiving direct care services, regardless
17 of where they reside on campus. If the facility receives a
18 conditional license, it may not share staff until the
19 conditional license status ends. This subsection does not
20 restrict the agency's authority under federal or state law to
21 require additional staff if a facility is cited for
22 deficiencies in care which are caused by an insufficient
23 number of certified nursing assistants or licensed nurses. The
24 agency may adopt rules for the documentation necessary to
25 determine compliance with this provision.

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

28 (9) If the licensee furnishes food service, provide a
29 wholesome and nourishing diet sufficient to meet generally
30 accepted standards of proper nutrition for its residents and
31 provide such therapeutic diets as may be prescribed by

1 attending physicians. In making rules to implement this
2 subsection, the agency shall be guided by standards
3 recommended by nationally recognized professional groups and
4 associations with knowledge of dietetics.

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

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

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

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

1 Statewide Advocacy Council, and the Medicaid Fraud Control
2 Unit, with a clear description of the assistance to be
3 expected from each.

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

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

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

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

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

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

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

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

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

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

28 (17) Notify a licensed physician when a resident
29 exhibits signs of dementia or cognitive impairment or has a
30 change of condition in order to rule out the presence of an
31 underlying physiological condition that may be contributing to

1 such dementia or impairment. The notification must occur
2 within 30 days after the acknowledgment of such signs by
3 facility staff. If an underlying condition is determined to
4 exist, the facility shall arrange, with the appropriate health
5 care provider, the necessary care and services to treat the
6 condition.

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

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

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

28 (21) Maintain in the medical record for each resident
29 a daily chart of certified nursing assistant services provided
30 to the resident. The certified nursing assistant who is caring
31 for the resident must complete this record by the end of his

1 or her shift. This record must indicate assistance with
2 activities of daily living, assistance with eating, and
3 assistance with drinking, and must record each offering of
4 nutrition and hydration for those residents whose plan of care
5 or assessment indicates a risk for malnutrition or
6 dehydration.

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

26 (23) Assess all residents for eligibility for
27 pneumococcal polysaccharide vaccination (PPV) and vaccinate
28 residents when indicated within 60 days after the effective
29 date of this act in accordance with the recommendations of the
30 United States Centers for Disease Control and Prevention,
31 subject to exemptions for medical contraindications and

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

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

22
23 Facilities having a standard license ~~that have been awarded a~~
24 ~~Gold Seal under the program established in s. 400.235~~ may
25 develop a plan to provide certified nursing assistant training
26 as prescribed by federal regulations and state rules and may
27 apply to the agency for approval of their program. The agency
28 may adopt rules relating to the approval, suspension, or
29 termination of a certified nursing assistant training program.

30 Section 3. Subsections (5) through (15) of section
31 400.147, Florida Statutes, are amended to read:

1 400.147 Internal risk management and quality assurance
2 program.--

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

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

10 1. Death;
11 2. Brain or spinal damage;
12 3. Permanent disfigurement;
13 4. Fracture or dislocation of bones or joints;
14 5. A limitation of neurological, physical, or sensory
15 function;

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

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

23 (b) Abuse, neglect, or exploitation as defined in s.
24 415.102;

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

26 (d) Resident elopement; or

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

29 (6) The internal risk manager of each licensed
30 facility shall:

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1 (a) Investigate every allegation of sexual misconduct
2 which is made against a member of the facility's personnel who
3 has direct patient contact when the allegation is that the
4 sexual misconduct occurred at the facility or at the grounds
5 of the facility;

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

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

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

1 ~~(b)(8)(a)~~ Each facility shall complete the
2 investigation and submit an adverse incident report to the
3 agency for each adverse incident within 15 calendar days after
4 its occurrence. If, after a complete investigation, the risk
5 manager determines that the incident was ~~not~~ an adverse
6 incident as defined in subsection (5), the facility shall
7 include this information in the report. The agency shall
8 develop a form for reporting this information.

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

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

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

22 ~~(8)(9)~~ By the 10th of each month, each facility
23 subject to this section shall report any notice received
24 pursuant to s. 400.0233(2) and each initial complaint that was
25 filed with the clerk of the court and served on the facility
26 during the previous month by a resident or a resident's family
27 member, guardian, conservator, or personal legal
28 representative. The report must include the name of the
29 resident, the resident's date of birth and social security
30 number, the Medicaid identification number for
31 Medicaid-eligible persons, the date or dates of the incident

1 leading to the claim or dates of residency, if applicable, and
2 the type of injury or violation of rights alleged to have
3 occurred. Each facility shall also submit a copy of the
4 notices received pursuant to s. 400.0233(2) and complaints
5 filed with the clerk of the court. This report is confidential
6 as provided by law and is not discoverable or admissible in
7 any civil or administrative action, except in such actions
8 brought by the agency to enforce the provisions of this part.

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

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

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

31

1 ~~(12)~~~~(13)~~ The agency may adopt rules to administer this
2 section.

3 ~~(13)~~~~(14)~~ The agency shall annually submit to the
4 Legislature a report on nursing home adverse incidents. The
5 report must include the following information arranged by
6 county:

7 (a) The total number of adverse incidents.

8 (b) A listing, by category, of the types of adverse
9 incidents, the number of incidents occurring within each
10 category, and the type of staff involved.

11 (c) A listing, by category, of the types of injury
12 caused and the number of injuries occurring within each
13 category.

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

16 (e) Disciplinary action taken against staff,
17 categorized by type of staff involved.

18 ~~(14)~~~~(15)~~ Information gathered by a credentialing
19 organization under a quality assurance program is not
20 discoverable from the credentialing organization. This
21 subsection does not limit discovery of, access to, or use of
22 facility records, including those records from which the
23 credentialing organization gathered its information.

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

26 400.19 Right of entry and inspection.--

27 (3) The agency shall every 15 months conduct at least
28 one unannounced inspection to determine compliance by the
29 licensee with statutes, and with rules adopted ~~promulgated~~
30 under the provisions of those statutes, governing minimum
31 standards of construction, quality and adequacy of care, and

1 | rights of residents. The survey shall be conducted every 6
2 | months for the next 2-year period if the facility has been
3 | cited for a class I deficiency, has been cited for two or more
4 | class II deficiencies arising from separate surveys or
5 | investigations within a 60-day period, or has had three or
6 | more substantiated complaints within a 6-month period, each
7 | resulting in at least one class I or class II deficiency. In
8 | addition to any other fees or fines in this part, the agency
9 | shall assess a fine for each facility that is subject to the
10 | 6-month survey cycle. The fine for the 2-year period shall be
11 | \$6,000, one-half to be paid at the completion of each survey.
12 | The agency may adjust this fine by the change in the Consumer
13 | Price Index, based on the 12 months immediately preceding the
14 | increase, to cover the cost of the additional surveys. If such
15 | deficiencies are overturned as the result of administrative
16 | action but additional surveys have already been conducted
17 | pursuant to this section, the most recent survey shall be
18 | considered a licensure survey for purposes of scheduling
19 | future surveys. The agency shall verify through subsequent
20 | inspection that any deficiency identified during the annual
21 | inspection is corrected. However, the agency may verify the
22 | correction of a class III or class IV deficiency unrelated to
23 | resident rights or resident care without reinspecting the
24 | facility if adequate written documentation has been received
25 | from the facility, which provides assurance that the
26 | deficiency has been corrected. The giving or causing to be
27 | given of advance notice of such unannounced inspections by an
28 | employee of the agency to any unauthorized person shall
29 | constitute cause for suspension of not fewer than 5 working
30 | days according to the provisions of chapter 110.

31 |

1 Section 5. Paragraph (d) of subsection (1) of section
2 400.195, Florida Statutes, is amended to read:

3 400.195 Agency reporting requirements.--

4 (1) For the period beginning June 30, 2001, and ending
5 June 30, 2005, the Agency for Health Care Administration shall
6 provide a report to the Governor, the President of the Senate,
7 and the Speaker of the House of Representatives with respect
8 to nursing homes. The first report shall be submitted no
9 later than December 30, 2002, and subsequent reports shall be
10 submitted every 6 months thereafter. The report shall
11 identify facilities based on their ownership characteristics,
12 size, business structure, for-profit or not-for-profit status,
13 and any other characteristics the agency determines useful in
14 analyzing the varied segments of the nursing home industry and
15 shall report:

16 (d) Information regarding deficiencies cited,
17 including information used to develop the Nursing Home Guide
18 WATCH LIST pursuant to s. 400.191, and applicable rules, a
19 summary of data generated on nursing homes by Centers for
20 Medicare and Medicaid Services Nursing Home Quality
21 Information Project, and information collected pursuant to s.
22 400.147(8) ~~s. 400.147(9)~~, relating to litigation.

23 Section 6. Paragraph (a) of subsection (3) of section
24 400.23, Florida Statutes, is amended to read:

25 400.23 Rules; evaluation and deficiencies; licensure
26 status.--

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

30 a. A minimum certified nursing assistant staffing of
31 2.6 hours of direct care per resident per day beginning

1 January 1, 2003, and increasing to 2.7 hours of direct care
2 per resident per day beginning January 1, 2007. Beginning
3 January 1, 2002, ~~a no~~ facility may not ~~shall~~ staff below one
4 certified nursing assistant per 20 residents, and must provide
5 a minimum licensed nursing staffing of 1.0 hour of direct care
6 per resident per day but never below one licensed nurse per 40
7 residents.

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

13 2. Nursing assistants employed under s. 400.211(2) may
14 be included in computing the staffing ratio for certified
15 nursing assistants only if their job responsibilities include
16 only nursing-assistant-related duties.

17 3. Each nursing home must document compliance with
18 staffing standards as required under this paragraph and post
19 daily the names of staff on duty for the benefit of facility
20 residents and the public. Compliance with federal posting
21 requirements satisfies the posting requirements in this
22 subparagraph.

23 4. 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 are performing the duties
28 of a certified nursing assistant. Unless otherwise approved by
29 the agency, licensed nurses counted toward the minimum
30 staffing requirements for certified nursing assistants must
31 exclusively perform the duties of a certified nursing

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

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

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