

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. However, upon the
12 request of a facility, the agency shall make quarterly visits
13 to a nursing home that is not conditionally licensed. The
14 request applies only to the current licensure period and must
15 be made again by the facility at the time of license renewal
16 in order to be continued. Priority for additional monitoring
17 visits shall be given to nursing facilities that have ~~with~~ a
18 history of resident care deficiencies. Quality-of-care
19 monitors shall be registered nurses who are trained and
20 experienced in nursing facility regulation, standards of
21 practice in long-term care, and evaluation of patient care.
22 Individuals in these positions ~~may shall~~ not be deployed by
23 the agency as a part of the district survey team in the
24 conduct of routine, scheduled surveys, but shall function
25 solely and independently as quality-of-care monitors.
26 Quality-of-care monitors shall assess the overall quality of
27 life in the nursing facility and shall assess specific
28 conditions in the facility directly related to resident care,
29 including the operations of internal quality improvement and
30 risk management programs and adverse incident reports. The
31 quality-of-care monitor shall include in an assessment visit

1 observation of the care and services rendered to residents and
2 formal and informal interviews with residents, family members,
3 facility staff, resident guests, volunteers, other regulatory
4 staff, and representatives of a long-term care ombudsman
5 council or Florida advocacy council.

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

8 400.141 Administration and management of nursing home
9 facilities.--Every licensed facility shall comply with all
10 applicable standards and rules of the agency and shall:

11 (1) Be under the administrative direction and charge
12 of a licensed administrator.

13 (2) Appoint a medical director licensed pursuant to
14 chapter 458 or chapter 459. The agency may establish by rule
15 more specific criteria for the appointment of a medical
16 director.

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

19 (4) Provide for resident use of a community pharmacy
20 as specified in s. 400.022(1)(q). Any other law to the
21 contrary notwithstanding, a registered pharmacist licensed in
22 Florida, that is under contract with a facility licensed under
23 this chapter or chapter 429, shall repackage a nursing
24 facility resident's bulk prescription medication which has
25 been packaged by another pharmacist licensed in any state in
26 the United States into a unit dose system compatible with the
27 system used by the nursing facility, if the pharmacist is
28 requested to offer such service. In order to be eligible for
29 the repackaging, a resident or the resident's spouse must
30 receive prescription medication benefits provided through a
31 former employer as part of his or her retirement benefits, a

1 qualified pension plan as specified in s. 4972 of the Internal
2 Revenue Code, a federal retirement program as specified under
3 5 C.F.R. s. 831, or a long-term care policy as defined in s.
4 627.9404(1). A pharmacist who correctly repackages and
5 relabels the medication and the nursing facility which
6 correctly administers such repackaged medication under the
7 provisions of this subsection shall not be held liable in any
8 civil or administrative action arising from the repackaging.
9 In order to be eligible for the repackaging, a nursing
10 facility resident for whom the medication is to be repackaged
11 shall sign an informed consent form provided by the facility
12 which includes an explanation of the repackaging process and
13 which notifies the resident of the immunities from liability
14 provided herein. A pharmacist who repackages and relabels
15 prescription medications, as authorized under this subsection,
16 may charge a reasonable fee for costs resulting from the
17 implementation of this provision.

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

30 (6) Be allowed and encouraged by the agency to provide
31 other needed services under certain conditions. If the

1 facility has a standard licensure status, and has had no class
2 I or class II deficiencies during the past 2 years or has been
3 awarded a Gold Seal under the program established in s.
4 400.235, it may be encouraged by the agency to provide
5 services, including, but not limited to, respite and adult day
6 services, which enable individuals to move in and out of the
7 facility. A facility is not subject to any additional
8 licensure requirements for providing these services. Respite
9 care may be offered to persons in need of short-term or
10 temporary nursing home services. Respite care must be provided
11 in accordance with this part and rules adopted by the agency.
12 However, the agency shall, by rule, adopt modified
13 requirements for resident assessment, resident care plans,
14 resident contracts, physician orders, and other provisions, as
15 appropriate, for short-term or temporary nursing home
16 services. The agency shall allow for shared programming and
17 staff in a facility which meets minimum standards and offers
18 services pursuant to this subsection, but, if the facility is
19 cited for deficiencies in patient care, may require additional
20 staff and programs appropriate to the needs of service
21 recipients. A person who receives respite care may not be
22 counted as a resident of the facility for purposes of the
23 facility's licensed capacity unless that person receives
24 24-hour respite care. A person receiving either respite care
25 for 24 hours or longer or adult day services must be included
26 when calculating minimum staffing for the facility. Any costs
27 and revenues generated by a nursing home facility from
28 nonresidential programs or services shall be excluded from the
29 calculations of Medicaid per diems for nursing home
30 institutional care reimbursement.
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1 (7) If the facility has a standard license or is a
2 Gold Seal facility, exceeds the minimum required hours of
3 licensed nursing and certified nursing assistant direct care
4 per resident per day, and is part of a continuing care
5 facility licensed under chapter 651 or a retirement community
6 that offers other services pursuant to part III of this
7 chapter or part I or part III of chapter 429 on a single
8 campus, be allowed to share programming and staff. At the time
9 of inspection and in the semiannual report required pursuant
10 to subsection (15), a continuing care facility or retirement
11 community that uses this option must demonstrate through
12 staffing records that minimum staffing requirements for the
13 facility were met. Licensed nurses and certified nursing
14 assistants who work in the nursing home facility may be used
15 to provide services elsewhere on campus if the facility
16 exceeds the minimum number of direct care hours required per
17 resident per day and the total number of residents receiving
18 direct care services from a licensed nurse or a certified
19 nursing assistant does not cause the facility to violate the
20 staffing ratios required under s. 400.23(3)(a). Compliance
21 with the minimum staffing ratios shall be based on total
22 number of residents receiving direct care services, regardless
23 of where they reside on campus. If the facility receives a
24 conditional license, it may not share staff until the
25 conditional license status ends. This subsection does not
26 restrict the agency's authority under federal or state law to
27 require additional staff if a facility is cited for
28 deficiencies in care which are caused by an insufficient
29 number of certified nursing assistants or licensed nurses. The
30 agency may adopt rules for the documentation necessary to
31 determine compliance with this provision.

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

3 (9) If the licensee furnishes food service, provide a
4 wholesome and nourishing diet sufficient to meet generally
5 accepted standards of proper nutrition for its residents and
6 provide such therapeutic diets as may be prescribed by
7 attending physicians. In making rules to implement this
8 subsection, the agency shall be guided by standards
9 recommended by nationally recognized professional groups and
10 associations with knowledge of dietetics.

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

20 (11) Keep such fiscal records of its operations and
21 conditions as may be necessary to provide information pursuant
22 to this part.

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

3 (13) Publicly display a poster provided by the agency
4 containing the names, addresses, and telephone numbers for the
5 state's abuse hotline, the State Long-Term Care Ombudsman, the
6 Agency for Health Care Administration consumer hotline, the
7 Advocacy Center for Persons with Disabilities, the Florida
8 Statewide Advocacy Council, and the Medicaid Fraud Control
9 Unit, with a clear description of the assistance to be
10 expected from each.

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

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

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

24 (b) Staff turnover must be reported for the most
25 recent 12-month period ending on the last workday of the most
26 recent calendar quarter prior to the date the information is
27 submitted. The turnover rate must be computed quarterly, with
28 the annual rate being the cumulative sum of the quarterly
29 rates. The turnover rate is the total number of terminations
30 or separations experienced during the quarter, excluding any
31 employee terminated during a probationary period of 3 months

1 or less, divided by the total number of staff employed at the
2 end of the period for which the rate is computed, and
3 expressed as a percentage.

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

9 (d) A nursing facility that has failed to comply with
10 state minimum-staffing requirements for 2 consecutive days is
11 prohibited from accepting new admissions until the facility
12 has achieved the minimum-staffing requirements for a period of
13 6 consecutive days. For the purposes of this paragraph, any
14 person who was a resident of the facility and was absent from
15 the facility for the purpose of receiving medical care at a
16 separate location or was on a leave of absence is not
17 considered a new admission. Failure to impose such an
18 admissions moratorium constitutes a class II deficiency.

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

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

27
28 Nothing in this section shall limit the agency's ability to
29 impose a deficiency or take other actions if a facility does
30 not have enough staff to meet the residents' needs.

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

4 (17) Notify a licensed physician when a resident
5 exhibits signs of dementia or cognitive impairment or has a
6 change of condition in order to rule out the presence of an
7 underlying physiological condition that may be contributing to
8 such dementia or impairment. The notification must occur
9 within 30 days after the acknowledgment of such signs by
10 facility staff. If an underlying condition is determined to
11 exist, the facility shall arrange, with the appropriate health
12 care provider, the necessary care and services to treat the
13 condition.

14 (18) If the facility implements a dining and
15 hospitality attendant program, ensure that the program is
16 developed and implemented under the supervision of the
17 facility director of nursing. A licensed nurse, licensed
18 speech or occupational therapist, or a registered dietitian
19 must conduct training of dining and hospitality attendants. A
20 person employed by a facility as a dining and hospitality
21 attendant must perform tasks under the direct supervision of a
22 licensed nurse.

23 (19) Report to the agency any filing for bankruptcy
24 protection by the facility or its parent corporation,
25 divestiture or spin-off of its assets, or corporate
26 reorganization within 30 days after the completion of such
27 activity.

28 (20) Maintain general and professional liability
29 insurance coverage that is in force at all times. In lieu of
30 general and professional liability insurance coverage, a
31 state-designated teaching nursing home and its affiliated

1 assisted living facilities created under s. 430.80 may
2 demonstrate proof of financial responsibility as provided in
3 s. 430.80(3)(h).

4 (21) Maintain in the medical record for each resident
5 a daily chart of certified nursing assistant services provided
6 to the resident. The certified nursing assistant who is caring
7 for the resident must complete this record by the end of his
8 or her shift. This record must indicate assistance with
9 activities of daily living, assistance with eating, and
10 assistance with drinking, and must record each offering of
11 nutrition and hydration for those residents whose plan of care
12 or assessment indicates a risk for malnutrition or
13 dehydration.

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

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

24 (24) Annually encourage and promote to its employees
25 the benefits associated with immunizations against influenza
26 viruses in accordance with the recommendations of the United
27 States Centers for Disease Control and Prevention. The agency
28 may adopt and enforce any rules necessary to comply with or
29 implement this subsection.

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1 Facilities having a standard license ~~that have been awarded a~~
2 ~~Gold Seal under the program established in s. 400.235~~ may
3 develop a plan to provide certified nursing assistant training
4 as prescribed by federal regulations and state rules and may
5 apply to the agency for approval of their program. The agency
6 may adopt rules relating to the approval, suspension, or
7 termination of a certified nursing assistant training program.

8 Section 3. Subsections (5) through (15) of section
9 400.147, Florida Statutes, are amended to read:

10 400.147 Internal risk management and quality assurance
11 program.--

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

14 (a) An event over which facility personnel could
15 exercise control and which is associated in whole or in part
16 with the facility's intervention, rather than the condition
17 for which such intervention occurred, and which results in one
18 of the following:

19 1. Death;
20 2. Brain or spinal damage;
21 3. Permanent disfigurement;
22 4. Fracture or dislocation of bones or joints;
23 5. A limitation of neurological, physical, or sensory
24 function;

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

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

1 (b) Abuse, neglect, or exploitation as defined in s.
2 415.102;

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

4 (d) Resident elopement; or

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

7 (6) The internal risk manager of each licensed
8 facility shall:

9 (a) Investigate every allegation of sexual misconduct
10 which is made against a member of the facility's personnel who
11 has direct patient contact when the allegation is that the
12 sexual misconduct occurred at the facility or at the grounds
13 of the facility;

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

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

19 (7)(a) The facility shall initiate an investigation
20 ~~and shall notify the agency~~ within 1 business day after the
21 risk manager or his or her designee has received a report
22 pursuant to paragraph (1)(d). ~~The notification must be made in~~
23 ~~writing and be provided electronically, by facsimile device or~~
24 ~~overnight mail delivery. The notification must include~~
25 ~~information regarding the identity of the affected resident,~~
26 ~~the type of adverse incident, the initiation of an~~
27 ~~investigation by the facility, and whether the events causing~~
28 ~~or resulting in the adverse incident represent a potential~~
29 ~~risk to any other resident. The notification is confidential~~
30 ~~as provided by law and is not discoverable or admissible in~~
31 ~~any civil or administrative action, except in disciplinary~~

1 ~~proceedings by the agency or the appropriate regulatory board.~~
2 ~~The agency may investigate, as it deems appropriate, any such~~
3 ~~incident and prescribe measures that must or may be taken in~~
4 ~~response to the incident. The agency shall review each~~
5 ~~incident and determine whether it potentially involved conduct~~
6 ~~by the health care professional who is subject to disciplinary~~
7 ~~action, in which case the provisions of s. 456.073 shall~~
8 ~~apply.~~

9 (b)(8)(a) Each facility shall complete the
10 investigation and submit an adverse incident report to the
11 agency for each adverse incident within 15 calendar days after
12 its occurrence. If, after a complete investigation, the risk
13 manager determines that the incident was ~~not~~ an adverse
14 incident as defined in subsection (5), the facility shall
15 include this information in the report. The agency shall
16 develop a form for reporting this information.

17 (c)(b) The information reported to the agency pursuant
18 to paragraph (b)(a) which relates to persons licensed under
19 chapter 458, chapter 459, chapter 461, or chapter 466 shall be
20 reviewed by the agency. The agency shall determine whether any
21 of the incidents potentially involved conduct by a health care
22 professional who is subject to disciplinary action, in which
23 case the provisions of s. 456.073 shall apply.

24 (d)(e) The report submitted to the agency must also
25 contain the name of the risk manager of the facility.

26 (e)(d) The adverse incident report is confidential as
27 provided by law and is not discoverable or admissible in any
28 civil or administrative action, except in disciplinary
29 proceedings by the agency or the appropriate regulatory board.

30 (8)(9) By the 10th of each month, each facility
31 subject to this section shall report any notice received

1 pursuant to s. 400.0233(2) and each initial complaint that was
2 filed with the clerk of the court and served on the facility
3 during the previous month by a resident or a resident's family
4 member, guardian, conservator, or personal legal
5 representative. The report must include the name of the
6 resident, the resident's date of birth and social security
7 number, the Medicaid identification number for
8 Medicaid-eligible persons, the date or dates of the incident
9 leading to the claim or dates of residency, if applicable, and
10 the type of injury or violation of rights alleged to have
11 occurred. Each facility shall also submit a copy of the
12 notices received pursuant to s. 400.0233(2) and complaints
13 filed with the clerk of the court. This report is confidential
14 as provided by law and is not discoverable or admissible in
15 any civil or administrative action, except in such actions
16 brought by the agency to enforce the provisions of this part.

17 ~~(9)(10)~~ The agency shall review, as part of its
18 licensure inspection process, the internal risk management and
19 quality assurance program at each facility regulated by this
20 section to determine whether the program meets standards
21 established in statutory laws and rules, is being conducted in
22 a manner designed to reduce adverse incidents, and is
23 appropriately reporting incidents as required by this section.

24 ~~(10)(11)~~ There is no monetary liability on the part
25 of, and a cause of action for damages may not arise against,
26 any risk manager for the implementation and oversight of the
27 internal risk management and quality assurance program in a
28 facility licensed under this part as required by this section,
29 or for any act or proceeding undertaken or performed within
30 the scope of the functions of such internal risk management
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1 and quality assurance program if the risk manager acts without
2 intentional fraud.

3 ~~(11)~~(12) If the agency, through its receipt of the
4 adverse incident reports prescribed in subsection (7), or
5 through any investigation, has a reasonable belief that
6 conduct by a staff member or employee of a facility is grounds
7 for disciplinary action by the appropriate regulatory board,
8 the agency shall report this fact to the regulatory board.

9 ~~(12)~~(13) The agency may adopt rules to administer this
10 section.

11 ~~(13)~~(14) The agency shall annually submit to the
12 Legislature a report on nursing home adverse incidents. The
13 report must include the following information arranged by
14 county:

15 (a) The total number of adverse incidents.

16 (b) A listing, by category, of the types of adverse
17 incidents, the number of incidents occurring within each
18 category, and the type of staff involved.

19 (c) A listing, by category, of the types of injury
20 caused and the number of injuries occurring within each
21 category.

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

24 (e) Disciplinary action taken against staff,
25 categorized by type of staff involved.

26 ~~(14)~~(15) Information gathered by a credentialing
27 organization under a quality assurance program is not
28 discoverable from the credentialing organization. This
29 subsection does not limit discovery of, access to, or use of
30 facility records, including those records from which the
31 credentialing organization gathered its information.

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

3 400.19 Right of entry and inspection.--

4 (3) The agency shall every 15 months conduct at least
5 one unannounced inspection to determine compliance by the
6 licensee with statutes, and with rules adopted ~~promulgated~~
7 under the provisions of those statutes, governing minimum
8 standards of construction, quality and adequacy of care, and
9 rights of residents. The survey shall be conducted every 6
10 months for the next 2-year period if the facility has been
11 cited for a class I deficiency, has been cited for two or more
12 class II deficiencies arising from separate surveys or
13 investigations within a 60-day period, or has had three or
14 more substantiated complaints within a 6-month period, each
15 resulting in at least one class I or class II deficiency. In
16 addition to any other fees or fines in this part, the agency
17 shall assess a fine for each facility that is subject to the
18 6-month survey cycle. The fine for the 2-year period shall be
19 \$6,000, one-half to be paid at the completion of each survey.
20 The agency may adjust this fine by the change in the Consumer
21 Price Index, based on the 12 months immediately preceding the
22 increase, to cover the cost of the additional surveys. If such
23 deficiencies are overturned as the result of administrative
24 action but additional surveys have already been conducted
25 pursuant to this section, the most recent survey shall be
26 considered a licensure survey for purposes of scheduling
27 future surveys. The agency shall verify through subsequent
28 inspection that any deficiency identified during the annual
29 inspection is corrected. However, the agency may verify the
30 correction of a class III or class IV deficiency unrelated to
31 resident rights or resident care without reinspecting the

1 facility if adequate written documentation has been received
2 from the facility, which provides assurance that the
3 deficiency has been corrected. The giving or causing to be
4 given of advance notice of such unannounced inspections by an
5 employee of the agency to any unauthorized person shall
6 constitute cause for suspension of not fewer than 5 working
7 days according to the provisions of chapter 110.

8 Section 5. Paragraph (d) of subsection (1) of section
9 400.195, Florida Statutes, is amended to read:

10 400.195 Agency reporting requirements.--

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

23 (d) Information regarding deficiencies cited,
24 including information used to develop the Nursing Home Guide
25 WATCH LIST pursuant to s. 400.191, and applicable rules, a
26 summary of data generated on nursing homes by Centers for
27 Medicare and Medicaid Services Nursing Home Quality
28 Information Project, and information collected pursuant to s.
29 400.147(8) ~~s. 400.147(9)~~, relating to litigation.

30 Section 6. Paragraph (a) of subsection (3) of section
31 400.23, Florida Statutes, is amended to read:

1 400.23 Rules; evaluation and deficiencies; licensure
2 status.--

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

6 a. A minimum certified nursing assistant staffing of
7 2.6 hours of direct care per resident per day beginning
8 January 1, 2003, and increasing to 2.7 hours of direct care
9 per resident per day beginning January 1, 2007. Beginning
10 January 1, 2002, ~~a no~~ facility may not shall staff below one
11 certified nursing assistant per 20 residents, and must provide
12 a minimum licensed nursing staffing of 1.0 hour of direct care
13 per resident per day but never below one licensed nurse per 40
14 residents.

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

20 2. Nursing assistants employed under s. 400.211(2) may
21 be included in computing the staffing ratio for certified
22 nursing assistants only if their job responsibilities include
23 only nursing-assistant-related duties.

24 3. Each nursing home must document compliance with
25 staffing standards as required under this paragraph and post
26 daily the names of staff on duty for the benefit of facility
27 residents and the public. Compliance with federal posting
28 requirements satisfies the posting requirements in this
29 subparagraph.

30 4. The agency shall recognize the use of licensed
31 nurses for compliance with minimum staffing requirements for

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

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