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1 A bill to be entitled
2 An act relating to nursing facilities; amending s.
3 400.118, F.S.; revising the frequency of visits to nursing
4 facilities by quality-of-care monitors from the Agency for
5 Health Care Administration; amending s. 400.141, F.S.;
6 authorizing certain licensed nursing facilities to develop
7 a plan to provide certain training for nursing assistants;
8 providing for rules relating to agency approval of
9 training programs; amending s. 400.147, F.S.; redefining
10 the term "adverse incident"; deleting the requirement that
11 a nursing facility notify the agency of an adverse
12 incident; deleting notification requirements; requiring
13 that a risk manager determine if an incident was an
14 adverse incident; amending s. 400.19, F.S.; providing that
15 the most recent survey is a licensure survey under certain
16 conditions for purposes of future survey scheduling;
17 amending s. 400.195, F.S.; conforming a cross-reference;
18 amending s. 400.23, F.S.; requiring that federal posting
19 requirements for staffing standards comply with state
20 posting requirements; revising provisions relating to a
21 facility's use of licensed nurses to meet certain minimum
22 staffing requirements; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Paragraph (a) of subsection (2) of section
27 400.118, Florida Statutes, is amended to read:

28 400.118 Quality assurance; early warning system;

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29 monitoring; rapid response teams.--

30 (2)(a) The agency shall establish within each district
31 office one or more quality-of-care monitors, based on the number
32 of nursing facilities in the district, to monitor all nursing
33 facilities in the district on a regular, unannounced, aperiodic
34 basis, including nights, evenings, weekends, and holidays.
35 Quality-of-care monitors shall visit each nursing facility
36 annually, shall visit each conditionally licensed nursing
37 facility at least quarterly, and shall visit other facilities as
38 directed by the agency. However, upon the request of a facility,
39 the agency shall make quarterly visits to a nursing home that is
40 not conditionally licensed. The request applies only to the
41 current licensure period and must be made again by the facility
42 at the time of license renewal in order to be continued.
43 Priority for additional monitoring visits shall be given to
44 nursing facilities that have ~~with~~ a history of resident care
45 deficiencies. Quality-of-care monitors shall be registered
46 nurses who are trained and experienced in nursing facility
47 regulation, standards of practice in long-term care, and
48 evaluation of patient care. Individuals in these positions may
49 ~~shall~~ not be deployed by the agency as a part of the district
50 survey team in the conduct of routine, scheduled surveys, but
51 shall function solely and independently as quality-of-care
52 monitors. Quality-of-care monitors shall assess the overall
53 quality of life in the nursing facility and shall assess
54 specific conditions in the facility directly related to resident
55 care, including the operations of internal quality improvement
56 and risk management programs and adverse incident reports. The

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57 | quality-of-care monitor shall include in an assessment visit
58 | observation of the care and services rendered to residents and
59 | formal and informal interviews with residents, family members,
60 | facility staff, resident guests, volunteers, other regulatory
61 | staff, and representatives of a long-term care ombudsman council
62 | or Florida advocacy council.

63 | Section 2. Section 400.141, Florida Statutes, is amended
64 | to read:

65 | 400.141 Administration and management of nursing home
66 | facilities.--Every licensed facility shall comply with all
67 | applicable standards and rules of the agency and shall:

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

70 | (2) Appoint a medical director licensed pursuant to
71 | chapter 458 or chapter 459. The agency may establish by rule
72 | more specific criteria for the appointment of a medical
73 | director.

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

76 | (4) Provide for resident use of a community pharmacy as
77 | specified in s. 400.022(1)(q). Any other law to the contrary
78 | notwithstanding, a registered pharmacist licensed in Florida,
79 | that is under contract with a facility licensed under this
80 | chapter or chapter 429, shall repackage a nursing facility
81 | resident's bulk prescription medication which has been packaged
82 | by another pharmacist licensed in any state in the United States
83 | into a unit dose system compatible with the system used by the
84 | nursing facility, if the pharmacist is requested to offer such

85 service. In order to be eligible for the repackaging, a resident
86 or the resident's spouse must receive prescription medication
87 benefits provided through a former employer as part of his or
88 her retirement benefits, a qualified pension plan as specified
89 in s. 4972 of the Internal Revenue Code, a federal retirement
90 program as specified under 5 C.F.R. s. 831, or a long-term care
91 policy as defined in s. 627.9404(1). A pharmacist who correctly
92 repackages and relabels the medication and the nursing facility
93 which correctly administers such repackaged medication under the
94 provisions of this subsection shall not be held liable in any
95 civil or administrative action arising from the repackaging. In
96 order to be eligible for the repackaging, a nursing facility
97 resident for whom the medication is to be repackaged shall sign
98 an informed consent form provided by the facility which includes
99 an explanation of the repackaging process and which notifies the
100 resident of the immunities from liability provided herein. A
101 pharmacist who repackages and relabels prescription medications,
102 as authorized under this subsection, may charge a reasonable fee
103 for costs resulting from the implementation of this provision.

104 (5) Provide for the access of the facility residents to
105 dental and other health-related services, recreational services,
106 rehabilitative services, and social work services appropriate to
107 their needs and conditions and not directly furnished by the
108 licensee. When a geriatric outpatient nurse clinic is conducted
109 in accordance with rules adopted by the agency, outpatients
110 attending such clinic shall not be counted as part of the
111 general resident population of the nursing home facility, nor
112 shall the nursing staff of the geriatric outpatient clinic be

113 counted as part of the nursing staff of the facility, until the
114 outpatient clinic load exceeds 15 a day.

115 (6) Be allowed and encouraged by the agency to provide
116 other needed services under certain conditions. If the facility
117 has a standard licensure status, and has had no class I or class
118 II deficiencies during the past 2 years or has been awarded a
119 Gold Seal under the program established in s. 400.235, it may be
120 encouraged by the agency to provide services, including, but not
121 limited to, respite and adult day services, which enable
122 individuals to move in and out of the facility. A facility is
123 not subject to any additional licensure requirements for
124 providing these services. Respite care may be offered to persons
125 in need of short-term or temporary nursing home services.
126 Respite care must be provided in accordance with this part and
127 rules adopted by the agency. However, the agency shall, by rule,
128 adopt modified requirements for resident assessment, resident
129 care plans, resident contracts, physician orders, and other
130 provisions, as appropriate, for short-term or temporary nursing
131 home services. The agency shall allow for shared programming and
132 staff in a facility which meets minimum standards and offers
133 services pursuant to this subsection, but, if the facility is
134 cited for deficiencies in patient care, may require additional
135 staff and programs appropriate to the needs of service
136 recipients. A person who receives respite care may not be
137 counted as a resident of the facility for purposes of the
138 facility's licensed capacity unless that person receives 24-hour
139 respite care. A person receiving either respite care for 24
140 hours or longer or adult day services must be included when

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141 calculating minimum staffing for the facility. Any costs and
142 revenues generated by a nursing home facility from
143 nonresidential programs or services shall be excluded from the
144 calculations of Medicaid per diems for nursing home
145 institutional care reimbursement.

146 (7) If the facility has a standard license or is a Gold
147 Seal facility, exceeds the minimum required hours of licensed
148 nursing and certified nursing assistant direct care per resident
149 per day, and is part of a continuing care facility licensed
150 under chapter 651 or a retirement community that offers other
151 services pursuant to part III of this chapter or part I or part
152 III of chapter 429 on a single campus, be allowed to share
153 programming and staff. At the time of inspection and in the
154 semiannual report required pursuant to subsection (15), a
155 continuing care facility or retirement community that uses this
156 option must demonstrate through staffing records that minimum
157 staffing requirements for the facility were met. Licensed nurses
158 and certified nursing assistants who work in the nursing home
159 facility may be used to provide services elsewhere on campus if
160 the facility exceeds the minimum number of direct care hours
161 required per resident per day and the total number of residents
162 receiving direct care services from a licensed nurse or a
163 certified nursing assistant does not cause the facility to
164 violate the staffing ratios required under s. 400.23(3)(a).
165 Compliance with the minimum staffing ratios shall be based on
166 total number of residents receiving direct care services,
167 regardless of where they reside on campus. If the facility
168 receives a conditional license, it may not share staff until the

169 conditional license status ends. This subsection does not
170 restrict the agency's authority under federal or state law to
171 require additional staff if a facility is cited for deficiencies
172 in care which are caused by an insufficient number of certified
173 nursing assistants or licensed nurses. The agency may adopt
174 rules for the documentation necessary to determine compliance
175 with this provision.

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

178 (9) If the licensee furnishes food service, provide a
179 wholesome and nourishing diet sufficient to meet generally
180 accepted standards of proper nutrition for its residents and
181 provide such therapeutic diets as may be prescribed by attending
182 physicians. In making rules to implement this subsection, the
183 agency shall be guided by standards recommended by nationally
184 recognized professional groups and associations with knowledge
185 of dietetics.

186 (10) Keep full records of resident admissions and
187 discharges; medical and general health status, including medical
188 records, personal and social history, and identity and address
189 of next of kin or other persons who may have responsibility for
190 the affairs of the residents; and individual resident care plans
191 including, but not limited to, prescribed services, service
192 frequency and duration, and service goals. The records shall be
193 open to inspection by the agency.

194 (11) Keep such fiscal records of its operations and
195 conditions as may be necessary to provide information pursuant
196 to this part.

197 (12) Furnish copies of personnel records for employees
198 affiliated with such facility, to any other facility licensed by
199 this state requesting this information pursuant to this part.
200 Such information contained in the records may include, but is
201 not limited to, disciplinary matters and any reason for
202 termination. Any facility releasing such records pursuant to
203 this part shall be considered to be acting in good faith and may
204 not be held liable for information contained in such records,
205 absent a showing that the facility maliciously falsified such
206 records.

207 (13) Publicly display a poster provided by the agency
208 containing the names, addresses, and telephone numbers for the
209 state's abuse hotline, the State Long-Term Care Ombudsman, the
210 Agency for Health Care Administration consumer hotline, the
211 Advocacy Center for Persons with Disabilities, the Florida
212 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
213 with a clear description of the assistance to be expected from
214 each.

215 (14) Submit to the agency the information specified in s.
216 400.071(1)(b) for a management company within 30 days after the
217 effective date of the management agreement.

218 (15) Submit semiannually to the agency, or more frequently
219 if requested by the agency, information regarding facility
220 staff-to-resident ratios, staff turnover, and staff stability,
221 including information regarding certified nursing assistants,
222 licensed nurses, the director of nursing, and the facility
223 administrator. For purposes of this reporting:

224 (a) Staff-to-resident ratios must be reported in the

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225 categories specified in s. 400.23(3)(a) and applicable rules.
226 The ratio must be reported as an average for the most recent
227 calendar quarter.

228 (b) Staff turnover must be reported for the most recent
229 12-month period ending on the last workday of the most recent
230 calendar quarter prior to the date the information is submitted.
231 The turnover rate must be computed quarterly, with the annual
232 rate being the cumulative sum of the quarterly rates. The
233 turnover rate is the total number of terminations or separations
234 experienced during the quarter, excluding any employee
235 terminated during a probationary period of 3 months or less,
236 divided by the total number of staff employed at the end of the
237 period for which the rate is computed, and expressed as a
238 percentage.

239 (c) The formula for determining staff stability is the
240 total number of employees that have been employed for more than
241 12 months, divided by the total number of employees employed at
242 the end of the most recent calendar quarter, and expressed as a
243 percentage.

244 (d) A nursing facility that has failed to comply with
245 state minimum-staffing requirements for 2 consecutive days is
246 prohibited from accepting new admissions until the facility has
247 achieved the minimum-staffing requirements for a period of 6
248 consecutive days. For the purposes of this paragraph, any person
249 who was a resident of the facility and was absent from the
250 facility for the purpose of receiving medical care at a separate
251 location or was on a leave of absence is not considered a new
252 admission. Failure to impose such an admissions moratorium

253 constitutes a class II deficiency.

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

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

261
 262 Nothing in this section shall limit the agency's ability to
 263 impose a deficiency or take other actions if a facility does not
 264 have enough staff to meet the residents' needs.

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

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

277 (18) If the facility implements a dining and hospitality
 278 attendant program, ensure that the program is developed and
 279 implemented under the supervision of the facility director of
 280 nursing. A licensed nurse, licensed speech or occupational

281 therapist, or a registered dietitian must conduct training of
282 dining and hospitality attendants. A person employed by a
283 facility as a dining and hospitality attendant must perform
284 tasks under the direct supervision of a licensed nurse.

285 (19) Report to the agency any filing for bankruptcy
286 protection by the facility or its parent corporation,
287 divestiture or spin-off of its assets, or corporate
288 reorganization within 30 days after the completion of such
289 activity.

290 (20) Maintain general and professional liability insurance
291 coverage that is in force at all times. In lieu of general and
292 professional liability insurance coverage, a state-designated
293 teaching nursing home and its affiliated assisted living
294 facilities created under s. 430.80 may demonstrate proof of
295 financial responsibility as provided in s. 430.80(3)(h).

296 (21) Maintain in the medical record for each resident a
297 daily chart of certified nursing assistant services provided to
298 the resident. The certified nursing assistant who is caring for
299 the resident must complete this record by the end of his or her
300 shift. This record must indicate assistance with activities of
301 daily living, assistance with eating, and assistance with
302 drinking, and must record each offering of nutrition and
303 hydration for those residents whose plan of care or assessment
304 indicates a risk for malnutrition or dehydration.

305 (22) Before November 30 of each year, subject to the
306 availability of an adequate supply of the necessary vaccine,
307 provide for immunizations against influenza viruses to all its
308 consenting residents in accordance with the recommendations of

309 the United States Centers for Disease Control and Prevention,
310 subject to exemptions for medical contraindications and
311 religious or personal beliefs. Subject to these exemptions, any
312 consenting person who becomes a resident of the facility after
313 November 30 but before March 31 of the following year must be
314 immunized within 5 working days after becoming a resident.
315 Immunization shall not be provided to any resident who provides
316 documentation that he or she has been immunized as required by
317 this subsection. This subsection does not prohibit a resident
318 from receiving the immunization from his or her personal
319 physician if he or she so chooses. A resident who chooses to
320 receive the immunization from his or her personal physician
321 shall provide proof of immunization to the facility. The agency
322 may adopt and enforce any rules necessary to comply with or
323 implement this subsection.

324 (23) Assess all residents for eligibility for pneumococcal
325 polysaccharide vaccination (PPV) and vaccinate residents when
326 indicated within 60 days after the effective date of this act in
327 accordance with the recommendations of the United States Centers
328 for Disease Control and Prevention, subject to exemptions for
329 medical contraindications and religious or personal beliefs.
330 Residents admitted after the effective date of this act shall be
331 assessed within 5 working days of admission and, when indicated,
332 vaccinated within 60 days in accordance with the recommendations
333 of the United States Centers for Disease Control and Prevention,
334 subject to exemptions for medical contraindications and
335 religious or personal beliefs. Immunization shall not be
336 provided to any resident who provides documentation that he or

337 she has been immunized as required by this subsection. This
 338 subsection does not prohibit a resident from receiving the
 339 immunization from his or her personal physician if he or she so
 340 chooses. A resident who chooses to receive the immunization from
 341 his or her personal physician shall provide proof of
 342 immunization to the facility. The agency may adopt and enforce
 343 any rules necessary to comply with or implement this subsection.

344 (24) Annually encourage and promote to its employees the
 345 benefits associated with immunizations against influenza viruses
 346 in accordance with the recommendations of the United States
 347 Centers for Disease Control and Prevention. The agency may adopt
 348 and enforce any rules necessary to comply with or implement this
 349 subsection.

350
 351 Facilities having a standard license ~~that have been awarded a~~
 352 ~~Gold Seal under the program established in s. 400.235~~ may
 353 develop a plan to provide certified nursing assistant training
 354 as prescribed by federal regulations and state rules and may
 355 apply to the agency for approval of their program. The agency
 356 may adopt rules relating to the approval, suspension, or
 357 termination of a certified nursing assistant training program.

358 Section 3. Subsections (5) through (15) of section
 359 400.147, Florida Statutes, are amended to read:

360 400.147 Internal risk management and quality assurance
 361 program.--

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

364 (a) An event over which facility personnel could exercise

365 control and which is associated in whole or in part with the
 366 facility's intervention, rather than the condition for which
 367 such intervention occurred, and which results in one of the
 368 following:

- 369 1. Death;
- 370 2. Brain or spinal damage;
- 371 3. Permanent disfigurement;
- 372 4. Fracture or dislocation of bones or joints;
- 373 5. A limitation of neurological, physical, or sensory
 374 function;
- 375 6. Any condition that required medical attention to which
 376 the resident has not given his or her informed consent,
 377 including failure to honor advanced directives; or
- 378 7. Any condition that required the transfer of the
 379 resident, within or outside the facility, to a unit providing a
 380 more acute level of care due to the adverse incident, rather
 381 than the resident's condition prior to the adverse incident;
- 382 (b) Abuse, neglect, or exploitation as defined in s.
 383 415.102;
- 384 (c) Abuse, neglect and harm as defined in s. 39.01;
- 385 (d) Resident elopement; or
- 386 (e) An event that is reported to a law enforcement agency
 387 for investigation.

388 (6) The internal risk manager of each licensed facility
 389 shall:

- 390 (a) Investigate every allegation of sexual misconduct
 391 which is made against a member of the facility's personnel who
 392 has direct patient contact when the allegation is that the

393 sexual misconduct occurred at the facility or at the grounds of
 394 the facility;

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

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

400 (7) (a) The facility shall initiate an investigation ~~and~~
 401 ~~shall notify the agency~~ within 1 business day after the risk
 402 manager or his or her designee has received a report pursuant to
 403 paragraph (1) (d). ~~The notification must be made in writing and~~
 404 ~~be provided electronically, by facsimile device or overnight~~
 405 ~~mail delivery. The notification must include information~~
 406 ~~regarding the identity of the affected resident, the type of~~
 407 ~~adverse incident, the initiation of an investigation by the~~
 408 ~~facility, and whether the events causing or resulting in the~~
 409 ~~adverse incident represent a potential risk to any other~~
 410 ~~resident. The notification is confidential as provided by law~~
 411 ~~and is not discoverable or admissible in any civil or~~
 412 ~~administrative action, except in disciplinary proceedings by the~~
 413 ~~agency or the appropriate regulatory board. The agency may~~
 414 ~~investigate, as it deems appropriate, any such incident and~~
 415 ~~prescribe measures that must or may be taken in response to the~~
 416 ~~incident. The agency shall review each incident and determine~~
 417 ~~whether it potentially involved conduct by the health care~~
 418 ~~professional who is subject to disciplinary action, in which~~
 419 ~~case the provisions of s. 456.073 shall apply.~~

420 (b)-(8)-(a) Each facility shall complete the investigation

421 and submit an adverse incident report to the agency for each
422 adverse incident within 15 calendar days after its occurrence.
423 If, after a complete investigation, the risk manager determines
424 that the incident was ~~not~~ an adverse incident as defined in
425 subsection (5), the facility shall include this information in
426 the report. The agency shall develop a form for reporting this
427 information.

428 (c)~~(b)~~ The information reported to the agency pursuant to
429 paragraph (b) ~~(a)~~ which relates to persons licensed under
430 chapter 458, chapter 459, chapter 461, or chapter 466 shall be
431 reviewed by the agency. The agency shall determine whether any
432 of the incidents potentially involved conduct by a health care
433 professional who is subject to disciplinary action, in which
434 case the provisions of s. 456.073 shall apply.

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

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

441 (8)~~(9)~~ By the 10th of each month, each facility subject to
442 this section shall report any notice received pursuant to s.
443 400.0233(2) and each initial complaint that was filed with the
444 clerk of the court and served on the facility during the
445 previous month by a resident or a resident's family member,
446 guardian, conservator, or personal legal representative. The
447 report must include the name of the resident, the resident's
448 date of birth and social security number, the Medicaid

449 identification number for Medicaid-eligible persons, the date or
450 dates of the incident leading to the claim or dates of
451 residency, if applicable, and the type of injury or violation of
452 rights alleged to have occurred. Each facility shall also submit
453 a copy of the notices received pursuant to s. 400.0233(2) and
454 complaints filed with the clerk of the court. This report is
455 confidential as provided by law and is not discoverable or
456 admissible in any civil or administrative action, except in such
457 actions brought by the agency to enforce the provisions of this
458 part.

459 (9)~~(10)~~ The agency shall review, as part of its licensure
460 inspection process, the internal risk management and quality
461 assurance program at each facility regulated by this section to
462 determine whether the program meets standards established in
463 statutory laws and rules, is being conducted in a manner
464 designed to reduce adverse incidents, and is appropriately
465 reporting incidents as required by this section.

466 (10)~~(11)~~ There is no monetary liability on the part of,
467 and a cause of action for damages may not arise against, any
468 risk manager for the implementation and oversight of the
469 internal risk management and quality assurance program in a
470 facility licensed under this part as required by this section,
471 or for any act or proceeding undertaken or performed within the
472 scope of the functions of such internal risk management and
473 quality assurance program if the risk manager acts without
474 intentional fraud.

475 (11)~~(12)~~ If the agency, through its receipt of the adverse
476 incident reports prescribed in subsection (7), or through any

477 investigation, has a reasonable belief that conduct by a staff
478 member or employee of a facility is grounds for disciplinary
479 action by the appropriate regulatory board, the agency shall
480 report this fact to the regulatory board.

481 (12)~~(13)~~ The agency may adopt rules to administer this
482 section.

483 (13)~~(14)~~ The agency shall annually submit to the
484 Legislature a report on nursing home adverse incidents. The
485 report must include the following information arranged by
486 county:

487 (a) The total number of adverse incidents.

488 (b) A listing, by category, of the types of adverse
489 incidents, the number of incidents occurring within each
490 category, and the type of staff involved.

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

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

495 (e) Disciplinary action taken against staff, categorized
496 by type of staff involved.

497 (14)~~(15)~~ Information gathered by a credentialing
498 organization under a quality assurance program is not
499 discoverable from the credentialing organization. This
500 subsection does not limit discovery of, access to, or use of
501 facility records, including those records from which the
502 credentialing organization gathered its information.

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

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505 400.19 Right of entry and inspection.--

506 (3) The agency shall every 15 months conduct at least one

507 unannounced inspection to determine compliance by the licensee

508 with statutes, and with rules adopted ~~promulgated~~ under the

509 provisions of those statutes, governing minimum standards of

510 construction, quality and adequacy of care, and rights of

511 residents. The survey shall be conducted every 6 months for the

512 next 2-year period if the facility has been cited for a class I

513 deficiency, has been cited for two or more class II deficiencies

514 arising from separate surveys or investigations within a 60-day

515 period, or has had three or more substantiated complaints within

516 a 6-month period, each resulting in at least one class I or

517 class II deficiency. In addition to any other fees or fines in

518 this part, the agency shall assess a fine for each facility that

519 is subject to the 6-month survey cycle. The fine for the 2-year

520 period shall be \$6,000, one-half to be paid at the completion of

521 each survey. The agency may adjust this fine by the change in

522 the Consumer Price Index, based on the 12 months immediately

523 preceding the increase, to cover the cost of the additional

524 surveys. If such deficiencies are overturned as the result of

525 administrative action but additional surveys have already been

526 conducted pursuant to this section, the most recent survey shall

527 be considered a licensure survey for purposes of scheduling

528 future surveys. The agency shall verify through subsequent

529 inspection that any deficiency identified during inspection is

530 corrected. However, the agency may verify the correction of a

531 class III or class IV deficiency unrelated to resident rights or

532 resident care without reinspecting the facility if adequate

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533 written documentation has been received from the facility, which
534 provides assurance that the deficiency has been corrected. The
535 giving or causing to be given of advance notice of such
536 unannounced inspections by an employee of the agency to any
537 unauthorized person shall constitute cause for suspension of not
538 fewer than 5 working days according to the provisions of chapter
539 110.

540 Section 5. Paragraph (d) of subsection (1) of section
541 400.195, Florida Statutes, is amended to read:

542 400.195 Agency reporting requirements.--

543 (1) For the period beginning June 30, 2001, and ending
544 June 30, 2005, the Agency for Health Care Administration shall
545 provide a report to the Governor, the President of the Senate,
546 and the Speaker of the House of Representatives with respect to
547 nursing homes. The first report shall be submitted no later than
548 December 30, 2002, and subsequent reports shall be submitted
549 every 6 months thereafter. The report shall identify facilities
550 based on their ownership characteristics, size, business
551 structure, for-profit or not-for-profit status, and any other
552 characteristics the agency determines useful in analyzing the
553 varied segments of the nursing home industry and shall report:

554 (d) Information regarding deficiencies cited, including
555 information used to develop the Nursing Home Guide WATCH LIST
556 pursuant to s. 400.191, and applicable rules, a summary of data
557 generated on nursing homes by Centers for Medicare and Medicaid
558 Services Nursing Home Quality Information Project, and
559 information collected pursuant to s. 400.147(8) ~~s. 400.147(9)~~,
560 relating to litigation.

561 Section 6. Paragraph (a) of subsection (3) of section
 562 400.23, Florida Statutes, is amended to read:

563 400.23 Rules; evaluation and deficiencies; licensure
 564 status.--

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

568 a. A minimum certified nursing assistant staffing of 2.6
 569 hours of direct care per resident per day beginning January 1,
 570 2003, and increasing to 2.7 hours of direct care per resident
 571 per day beginning January 1, 2007. Beginning January 1, 2002, a
 572 ~~no~~ facility may not shall staff below one certified nursing
 573 assistant per 20 residents, and must provide a minimum licensed
 574 nursing staffing of 1.0 hour of direct care per resident per day
 575 but never below one licensed nurse per 40 residents.

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

580 2. Nursing assistants employed under s. 400.211(2) may be
 581 included in computing the staffing ratio for certified nursing
 582 assistants only if their job responsibilities include only
 583 nursing-assistant-related duties.

584 3. Each nursing home must document compliance with
 585 staffing standards as required under this paragraph and post
 586 daily the names of staff on duty for the benefit of facility
 587 residents and the public. Compliance with federal posting
 588 requirements satisfies the posting requirements in this

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589 subparagraph.

590 4. The agency shall recognize the use of licensed nurses
591 for compliance with minimum staffing requirements for certified
592 nursing assistants, provided that the facility otherwise meets
593 the minimum staffing requirements for licensed nurses and that
594 the licensed nurses are performing the duties of a certified
595 nursing assistant. ~~Unless otherwise approved by the agency,~~
596 Licensed nurses counted toward the minimum staffing requirements
597 for certified nursing assistants must exclusively perform the
598 duties of a certified nursing assistant ~~for the entire shift and~~
599 not also be counted toward the minimum staffing requirements for
600 licensed nurses. ~~If the agency approved a facility's request to~~
601 ~~use a licensed nurse to perform both licensed nursing and~~
602 ~~certified nursing assistant duties,~~ The facility must allocate
603 the amount of staff time specifically spent on certified nursing
604 assistant duties for the purpose of documenting compliance with
605 minimum staffing requirements for certified and licensed nursing
606 staff. In no event may the hours of a licensed nurse with dual
607 job responsibilities be counted twice.

608 Section 7. This act shall take effect July 1, 2008.