

1 A bill to be entitled
 2 An act relating to nursing facilities; amending s.
 3 400.141, F.S.; authorizing certain licensed nursing
 4 facilities to develop a plan to provide certain training
 5 for nursing assistants; providing for rules relating to
 6 approval of training programs by the Agency for Health
 7 Care Administration; amending s. 400.147, F.S.; redefining
 8 the term "adverse incident"; deleting the requirement that
 9 a nursing facility notify the agency of an adverse
 10 incident; deleting notification requirements; requiring
 11 that a risk manager determine if an incident was an
 12 adverse incident; providing applicability of federal
 13 reporting requirements to investigations of adverse
 14 incidents; amending s. 400.19, F.S.; providing that the
 15 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.; revising provisions relating to
 19 a facility's use of licensed nurses to meet certain
 20 minimum staffing requirements; providing an effective
 21 date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 400.141, Florida Statutes, is amended
 26 to read:

27 400.141 Administration and management of nursing home
 28 facilities.--Every licensed facility shall comply with all

29 applicable standards and rules of the agency and shall:

30 (1) Be under the administrative direction and charge of a
31 licensed administrator.

32 (2) Appoint a medical director licensed pursuant to
33 chapter 458 or chapter 459. The agency may establish by rule
34 more specific criteria for the appointment of a medical
35 director.

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

38 (4) Provide for resident use of a community pharmacy as
39 specified in s. 400.022(1)(q). Any other law to the contrary
40 notwithstanding, a registered pharmacist licensed in Florida,
41 that is under contract with a facility licensed under this
42 chapter or chapter 429, shall repackage a nursing facility
43 resident's bulk prescription medication which has been packaged
44 by another pharmacist licensed in any state in the United States
45 into a unit dose system compatible with the system used by the
46 nursing facility, if the pharmacist is requested to offer such
47 service. In order to be eligible for the repackaging, a resident
48 or the resident's spouse must receive prescription medication
49 benefits provided through a former employer as part of his or
50 her retirement benefits, a qualified pension plan as specified
51 in s. 4972 of the Internal Revenue Code, a federal retirement
52 program as specified under 5 C.F.R. s. 831, or a long-term care
53 policy as defined in s. 627.9404(1). A pharmacist who correctly
54 repackages and relabels the medication and the nursing facility
55 which correctly administers such repackaged medication under the
56 provisions of this subsection shall not be held liable in any

57 civil or administrative action arising from the repackaging. In
58 order to be eligible for the repackaging, a nursing facility
59 resident for whom the medication is to be repackaged shall sign
60 an informed consent form provided by the facility which includes
61 an explanation of the repackaging process and which notifies the
62 resident of the immunities from liability provided herein. A
63 pharmacist who repackages and relabels prescription medications,
64 as authorized under this subsection, may charge a reasonable fee
65 for costs resulting from the implementation of this provision.

66 (5) Provide for the access of the facility residents to
67 dental and other health-related services, recreational services,
68 rehabilitative services, and social work services appropriate to
69 their needs and conditions and not directly furnished by the
70 licensee. When a geriatric outpatient nurse clinic is conducted
71 in accordance with rules adopted by the agency, outpatients
72 attending such clinic shall not be counted as part of the
73 general resident population of the nursing home facility, nor
74 shall the nursing staff of the geriatric outpatient clinic be
75 counted as part of the nursing staff of the facility, until the
76 outpatient clinic load exceeds 15 a day.

77 (6) Be allowed and encouraged by the agency to provide
78 other needed services under certain conditions. If the facility
79 has a standard licensure status, and has had no class I or class
80 II deficiencies during the past 2 years or has been awarded a
81 Gold Seal under the program established in s. 400.235, it may be
82 encouraged by the agency to provide services, including, but not
83 limited to, respite and adult day services, which enable
84 individuals to move in and out of the facility. A facility is

85 | not subject to any additional licensure requirements for
86 | providing these services. Respite care may be offered to persons
87 | in need of short-term or temporary nursing home services.
88 | Respite care must be provided in accordance with this part and
89 | rules adopted by the agency. However, the agency shall, by rule,
90 | adopt modified requirements for resident assessment, resident
91 | care plans, resident contracts, physician orders, and other
92 | provisions, as appropriate, for short-term or temporary nursing
93 | home services. The agency shall allow for shared programming and
94 | staff in a facility which meets minimum standards and offers
95 | services pursuant to this subsection, but, if the facility is
96 | cited for deficiencies in patient care, may require additional
97 | staff and programs appropriate to the needs of service
98 | recipients. A person who receives respite care may not be
99 | counted as a resident of the facility for purposes of the
100 | facility's licensed capacity unless that person receives 24-hour
101 | respite care. A person receiving either respite care for 24
102 | hours or longer or adult day services must be included when
103 | calculating minimum staffing for the facility. Any costs and
104 | revenues generated by a nursing home facility from
105 | nonresidential programs or services shall be excluded from the
106 | calculations of Medicaid per diems for nursing home
107 | institutional care reimbursement.

108 | (7) If the facility has a standard license or is a Gold
109 | Seal facility, exceeds the minimum required hours of licensed
110 | nursing and certified nursing assistant direct care per resident
111 | per day, and is part of a continuing care facility licensed
112 | under chapter 651 or a retirement community that offers other

113 services pursuant to part III of this chapter or part I or part
114 III of chapter 429 on a single campus, be allowed to share
115 programming and staff. At the time of inspection and in the
116 semiannual report required pursuant to subsection (15), a
117 continuing care facility or retirement community that uses this
118 option must demonstrate through staffing records that minimum
119 staffing requirements for the facility were met. Licensed nurses
120 and certified nursing assistants who work in the nursing home
121 facility may be used to provide services elsewhere on campus if
122 the facility exceeds the minimum number of direct care hours
123 required per resident per day and the total number of residents
124 receiving direct care services from a licensed nurse or a
125 certified nursing assistant does not cause the facility to
126 violate the staffing ratios required under s. 400.23(3)(a).
127 Compliance with the minimum staffing ratios shall be based on
128 total number of residents receiving direct care services,
129 regardless of where they reside on campus. If the facility
130 receives a conditional license, it may not share staff until the
131 conditional license status ends. This subsection does not
132 restrict the agency's authority under federal or state law to
133 require additional staff if a facility is cited for deficiencies
134 in care which are caused by an insufficient number of certified
135 nursing assistants or licensed nurses. The agency may adopt
136 rules for the documentation necessary to determine compliance
137 with this provision.

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

140 (9) If the licensee furnishes food service, provide a

141 wholesome and nourishing diet sufficient to meet generally
142 accepted standards of proper nutrition for its residents and
143 provide such therapeutic diets as may be prescribed by attending
144 physicians. In making rules to implement this subsection, the
145 agency shall be guided by standards recommended by nationally
146 recognized professional groups and associations with knowledge
147 of dietetics.

148 (10) Keep full records of resident admissions and
149 discharges; medical and general health status, including medical
150 records, personal and social history, and identity and address
151 of next of kin or other persons who may have responsibility for
152 the affairs of the residents; and individual resident care plans
153 including, but not limited to, prescribed services, service
154 frequency and duration, and service goals. The records shall be
155 open to inspection by the agency.

156 (11) Keep such fiscal records of its operations and
157 conditions as may be necessary to provide information pursuant
158 to this part.

159 (12) Furnish copies of personnel records for employees
160 affiliated with such facility, to any other facility licensed by
161 this state requesting this information pursuant to this part.
162 Such information contained in the records may include, but is
163 not limited to, disciplinary matters and any reason for
164 termination. Any facility releasing such records pursuant to
165 this part shall be considered to be acting in good faith and may
166 not be held liable for information contained in such records,
167 absent a showing that the facility maliciously falsified such
168 records.

169 (13) Publicly display a poster provided by the agency
 170 containing the names, addresses, and telephone numbers for the
 171 state's abuse hotline, the State Long-Term Care Ombudsman, the
 172 Agency for Health Care Administration consumer hotline, the
 173 Advocacy Center for Persons with Disabilities, the Florida
 174 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
 175 with a clear description of the assistance to be expected from
 176 each.

177 (14) Submit to the agency the information specified in s.
 178 400.071(1)(b) for a management company within 30 days after the
 179 effective date of the management agreement.

180 (15) Submit semiannually to the agency, or more frequently
 181 if requested by the agency, information regarding facility
 182 staff-to-resident ratios, staff turnover, and staff stability,
 183 including information regarding certified nursing assistants,
 184 licensed nurses, the director of nursing, and the facility
 185 administrator. For purposes of this reporting:

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

190 (b) Staff turnover must be reported for the most recent
 191 12-month period ending on the last workday of the most recent
 192 calendar quarter prior to the date the information is submitted.
 193 The turnover rate must be computed quarterly, with the annual
 194 rate being the cumulative sum of the quarterly rates. The
 195 turnover rate is the total number of terminations or separations
 196 experienced during the quarter, excluding any employee

197 terminated during a probationary period of 3 months or less,
198 divided by the total number of staff employed at the end of the
199 period for which the rate is computed, and expressed as a
200 percentage.

201 (c) The formula for determining staff stability is the
202 total number of employees that have been employed for more than
203 12 months, divided by the total number of employees employed at
204 the end of the most recent calendar quarter, and expressed as a
205 percentage.

206 (d) A nursing facility that has failed to comply with
207 state minimum-staffing requirements for 2 consecutive days is
208 prohibited from accepting new admissions until the facility has
209 achieved the minimum-staffing requirements for a period of 6
210 consecutive days. For the purposes of this paragraph, any person
211 who was a resident of the facility and was absent from the
212 facility for the purpose of receiving medical care at a separate
213 location or was on a leave of absence is not considered a new
214 admission. Failure to impose such an admissions moratorium
215 constitutes a class II deficiency.

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

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

223

224 Nothing in this section shall limit the agency's ability to

225 impose a deficiency or take other actions if a facility does not
 226 have enough staff to meet the residents' needs.

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

230 (17) Notify a licensed physician when a resident exhibits
 231 signs of dementia or cognitive impairment or has a change of
 232 condition in order to rule out the presence of an underlying
 233 physiological condition that may be contributing to such
 234 dementia or impairment. The notification must occur within 30
 235 days after the acknowledgment of such signs by facility staff.
 236 If an underlying condition is determined to exist, the facility
 237 shall arrange, with the appropriate health care provider, the
 238 necessary care and services to treat the condition.

239 (18) If the facility implements a dining and hospitality
 240 attendant program, ensure that the program is developed and
 241 implemented under the supervision of the facility director of
 242 nursing. A licensed nurse, licensed speech or occupational
 243 therapist, or a registered dietitian must conduct training of
 244 dining and hospitality attendants. A person employed by a
 245 facility as a dining and hospitality attendant must perform
 246 tasks under the direct supervision of a licensed nurse.

247 (19) Report to the agency any filing for bankruptcy
 248 protection by the facility or its parent corporation,
 249 divestiture or spin-off of its assets, or corporate
 250 reorganization within 30 days after the completion of such
 251 activity.

252 (20) Maintain general and professional liability insurance

253 coverage that is in force at all times. In lieu of general and
 254 professional liability insurance coverage, a state-designated
 255 teaching nursing home and its affiliated assisted living
 256 facilities created under s. 430.80 may demonstrate proof of
 257 financial responsibility as provided in s. 430.80(3)(h).

258 (21) Maintain in the medical record for each resident a
 259 daily chart of certified nursing assistant services provided to
 260 the resident. The certified nursing assistant who is caring for
 261 the resident must complete this record by the end of his or her
 262 shift. This record must indicate assistance with activities of
 263 daily living, assistance with eating, and assistance with
 264 drinking, and must record each offering of nutrition and
 265 hydration for those residents whose plan of care or assessment
 266 indicates a risk for malnutrition or dehydration.

267 (22) Before November 30 of each year, subject to the
 268 availability of an adequate supply of the necessary vaccine,
 269 provide for immunizations against influenza viruses to all its
 270 consenting residents in accordance with the recommendations of
 271 the United States Centers for Disease Control and Prevention,
 272 subject to exemptions for medical contraindications and
 273 religious or personal beliefs. Subject to these exemptions, any
 274 consenting person who becomes a resident of the facility after
 275 November 30 but before March 31 of the following year must be
 276 immunized within 5 working days after becoming a resident.
 277 Immunization shall not be provided to any resident who provides
 278 documentation that he or she has been immunized as required by
 279 this subsection. This subsection does not prohibit a resident
 280 from receiving the immunization from his or her personal

281 physician if he or she so chooses. A resident who chooses to
282 receive the immunization from his or her personal physician
283 shall provide proof of immunization to the facility. The agency
284 may adopt and enforce any rules necessary to comply with or
285 implement this subsection.

286 (23) Assess all residents for eligibility for pneumococcal
287 polysaccharide vaccination (PPV) and vaccinate residents when
288 indicated within 60 days after the effective date of this act in
289 accordance with the recommendations of the United States Centers
290 for Disease Control and Prevention, subject to exemptions for
291 medical contraindications and religious or personal beliefs.
292 Residents admitted after the effective date of this act shall be
293 assessed within 5 working days of admission and, when indicated,
294 vaccinated within 60 days in accordance with the recommendations
295 of the United States Centers for Disease Control and Prevention,
296 subject to exemptions for medical contraindications and
297 religious or personal beliefs. Immunization shall not be
298 provided to any resident who provides documentation that he or
299 she has been immunized as required by this subsection. This
300 subsection does not prohibit a resident from receiving the
301 immunization from his or her personal physician if he or she so
302 chooses. A resident who chooses to receive the immunization from
303 his or her personal physician shall provide proof of
304 immunization to the facility. The agency may adopt and enforce
305 any rules necessary to comply with or implement this subsection.

306 (24) Annually encourage and promote to its employees the
307 benefits associated with immunizations against influenza viruses
308 in accordance with the recommendations of the United States

309 Centers for Disease Control and Prevention. The agency may adopt
 310 and enforce any rules necessary to comply with or implement this
 311 subsection.

312
 313 Facilities having a standard license ~~that have been awarded a~~
 314 ~~Gold Seal under the program established in s. 400.235~~ may
 315 develop a plan to provide certified nursing assistant training
 316 as prescribed by federal regulations and state rules and may
 317 apply to the agency for approval of their program. The agency
 318 may adopt rules relating to the approval, suspension, or
 319 termination of a certified nursing assistant training program.

320 Section 2. Subsections (5) through (15) of section
 321 400.147, Florida Statutes, are amended to read:

322 400.147 Internal risk management and quality assurance
 323 program.--

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

326 (a) An event over which facility personnel could exercise
 327 control and which is associated in whole or in part with the
 328 facility's intervention, rather than the condition for which
 329 such intervention occurred, and which results in one of the
 330 following:

- 331 1. Death;
- 332 2. Brain or spinal damage;
- 333 3. Permanent disfigurement;
- 334 4. Fracture or dislocation of bones or joints;
- 335 5. A limitation of neurological, physical, or sensory
 336 function;

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

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

344 (b) Abuse, neglect, or exploitation as defined in s.
 345 415.102;

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

347 (d) Resident elopement; or

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

350 (6) The internal risk manager of each licensed facility
 351 shall:

352 (a) Investigate every allegation of sexual misconduct
 353 which is made against a member of the facility's personnel who
 354 has direct patient contact when the allegation is that the
 355 sexual misconduct occurred at the facility or at the grounds of
 356 the facility;

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

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

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

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

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

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

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

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

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

403 (f) Nothing in this subsection shall affect any federal
404 reporting requirements.

405 (8)~~(9)~~ By the 10th of each month, each facility subject to
406 this section shall report any notice received pursuant to s.
407 400.0233(2) and each initial complaint that was filed with the
408 clerk of the court and served on the facility during the
409 previous month by a resident or a resident's family member,
410 guardian, conservator, or personal legal representative. The
411 report must include the name of the resident, the resident's
412 date of birth and social security number, the Medicaid
413 identification number for Medicaid-eligible persons, the date or
414 dates of the incident leading to the claim or dates of
415 residency, if applicable, and the type of injury or violation of
416 rights alleged to have occurred. Each facility shall also submit
417 a copy of the notices received pursuant to s. 400.0233(2) and
418 complaints filed with the clerk of the court. This report is
419 confidential as provided by law and is not discoverable or
420 admissible in any civil or administrative action, except in such

421 actions brought by the agency to enforce the provisions of this
422 part.

423 (9)~~(10)~~ The agency shall review, as part of its licensure
424 inspection process, the internal risk management and quality
425 assurance program at each facility regulated by this section to
426 determine whether the program meets standards established in
427 statutory laws and rules, is being conducted in a manner
428 designed to reduce adverse incidents, and is appropriately
429 reporting incidents as required by this section.

430 (10)~~(11)~~ There is no monetary liability on the part of,
431 and a cause of action for damages may not arise against, any
432 risk manager for the implementation and oversight of the
433 internal risk management and quality assurance program in a
434 facility licensed under this part as required by this section,
435 or for any act or proceeding undertaken or performed within the
436 scope of the functions of such internal risk management and
437 quality assurance program if the risk manager acts without
438 intentional fraud.

439 (11)~~(12)~~ If the agency, through its receipt of the adverse
440 incident reports prescribed in subsection (7), or through any
441 investigation, has a reasonable belief that conduct by a staff
442 member or employee of a facility is grounds for disciplinary
443 action by the appropriate regulatory board, the agency shall
444 report this fact to the regulatory board.

445 (12)~~(13)~~ The agency may adopt rules to administer this
446 section.

447 (13)~~(14)~~ The agency shall annually submit to the
448 Legislature a report on nursing home adverse incidents. The

449 report must include the following information arranged by
 450 county:

451 (a) The total number of adverse incidents.

452 (b) A listing, by category, of the types of adverse
 453 incidents, the number of incidents occurring within each
 454 category, and the type of staff involved.

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

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

459 (e) Disciplinary action taken against staff, categorized
 460 by type of staff involved.

461 (14)~~(15)~~ Information gathered by a credentialing
 462 organization under a quality assurance program is not
 463 discoverable from the credentialing organization. This
 464 subsection does not limit discovery of, access to, or use of
 465 facility records, including those records from which the
 466 credentialing organization gathered its information.

467 Section 3. Subsection (3) of section 400.19, Florida
 468 Statutes, is amended to read:

469 400.19 Right of entry and inspection.--

470 (3) The agency shall every 15 months conduct at least one
 471 unannounced inspection to determine compliance by the licensee
 472 with statutes, and with rules adopted ~~promulgated~~ under the
 473 provisions of those statutes, governing minimum standards of
 474 construction, quality and adequacy of care, and rights of
 475 residents. The survey shall be conducted every 6 months for the
 476 next 2-year period if the facility has been cited for a class I

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477 deficiency, has been cited for two or more class II deficiencies
478 arising from separate surveys or investigations within a 60-day
479 period, or has had three or more substantiated complaints within
480 a 6-month period, each resulting in at least one class I or
481 class II deficiency. In addition to any other fees or fines in
482 this part, the agency shall assess a fine for each facility that
483 is subject to the 6-month survey cycle. The fine for the 2-year
484 period shall be \$6,000, one-half to be paid at the completion of
485 each survey. The agency may adjust this fine by the change in
486 the Consumer Price Index, based on the 12 months immediately
487 preceding the increase, to cover the cost of the additional
488 surveys. If such deficiencies are overturned as the result of
489 administrative action but additional surveys have already been
490 conducted pursuant to this section, the most recent survey shall
491 be considered a licensure survey for purposes of scheduling
492 future surveys. The agency shall verify through subsequent
493 inspection that any deficiency identified during inspection is
494 corrected. However, the agency may verify the correction of a
495 class III or class IV deficiency unrelated to resident rights or
496 resident care without reinspecting the facility if adequate
497 written documentation has been received from the facility, which
498 provides assurance that the deficiency has been corrected. The
499 giving or causing to be given of advance notice of such
500 unannounced inspections by an employee of the agency to any
501 unauthorized person shall constitute cause for suspension of not
502 fewer than 5 working days according to the provisions of chapter
503 110.

504 Section 4. Paragraph (d) of subsection (1) of section

505 400.195, Florida Statutes, is amended to read:

506 400.195 Agency reporting requirements.--

507 (1) For the period beginning June 30, 2001, and ending
 508 June 30, 2005, the Agency for Health Care Administration shall
 509 provide a report to the Governor, the President of the Senate,
 510 and the Speaker of the House of Representatives with respect to
 511 nursing homes. The first report shall be submitted no later than
 512 December 30, 2002, and subsequent reports shall be submitted
 513 every 6 months thereafter. The report shall identify facilities
 514 based on their ownership characteristics, size, business
 515 structure, for-profit or not-for-profit status, and any other
 516 characteristics the agency determines useful in analyzing the
 517 varied segments of the nursing home industry and shall report:

518 (d) Information regarding deficiencies cited, including
 519 information used to develop the Nursing Home Guide WATCH LIST
 520 pursuant to s. 400.191, and applicable rules, a summary of data
 521 generated on nursing homes by Centers for Medicare and Medicaid
 522 Services Nursing Home Quality Information Project, and
 523 information collected pursuant to s. 400.147(8) ~~s. 400.147(9)~~,
 524 relating to litigation.

525 Section 5. Paragraph (a) of subsection (3) of section
 526 400.23, Florida Statutes, is amended to read:

527 400.23 Rules; evaluation and deficiencies; licensure
 528 status.--

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

532 a. A minimum certified nursing assistant staffing of 2.6

533 hours of direct care per resident per day beginning January 1,
534 2003, and increasing to 2.7 hours of direct care per resident
535 per day beginning January 1, 2007. Beginning January 1, 2002, a
536 ~~ne~~ facility may not ~~shall~~ staff below one certified nursing
537 assistant per 20 residents, and must provide a minimum licensed
538 nursing staffing of 1.0 hour of direct care per resident per day
539 but never below one licensed nurse per 40 residents.

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

544 2. Nursing assistants employed under s. 400.211(2) may be
545 included in computing the staffing ratio for certified nursing
546 assistants only if their job responsibilities include only
547 nursing-assistant-related duties.

548 3. Each nursing home must document compliance with
549 staffing standards as required under this paragraph and post
550 daily the names of staff on duty for the benefit of facility
551 residents and the public.

552 4. The agency shall recognize the use of licensed nurses
553 for compliance with minimum staffing requirements for certified
554 nursing assistants, provided that the facility otherwise meets
555 the minimum staffing requirements for licensed nurses and that
556 the licensed nurses are performing the duties of a certified
557 nursing assistant. ~~Unless otherwise approved by the agency,~~
558 Licensed nurses counted toward the minimum staffing requirements
559 for certified nursing assistants must exclusively perform the
560 duties of a certified nursing assistant for the entire shift and

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561 not also be counted toward the minimum staffing requirements for
562 licensed nurses. ~~If the agency approved a facility's request to~~
563 ~~use a licensed nurse to perform both licensed nursing and~~
564 ~~certified nursing assistant duties,~~ The facility must allocate
565 the amount of staff time specifically spent on certified nursing
566 assistant duties for the purpose of documenting compliance with
567 minimum staffing requirements for certified and licensed nursing
568 staff. In no event may the hours of a licensed nurse with dual
569 job responsibilities be counted twice.

570 Section 6. This act shall take effect July 1, 2008.