

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 regarding a resident, other than for transportation.

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

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

CS/CS/HB 247

2008

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.