

By Senator Bennett

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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., relating to agency reporting
18 requirements; conforming a cross-reference; amending s.
19 400.23, F.S.; providing that compliance with federal
20 posting requirements for staffing standards satisfies
21 state posting requirements; deleting provisions requiring
22 agency approval in order for a nursing home to use
23 licensed nurses to perform certain duties; providing an
24 effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Paragraph (a) of subsection (2) of section
29 400.118, Florida Statutes, is amended to read:

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30 400.118 Quality assurance; early warning system;
31 monitoring; rapid response teams.--

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

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

65 | Section 2. Section 400.141, Florida Statutes, is amended to
66 | read:

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

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

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

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

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

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

105 | (5) Provide for the access of the facility residents to
106 | dental and other health-related services, recreational services,
107 | rehabilitative services, and social work services appropriate to
108 | their needs and conditions and not directly furnished by the
109 | licensee. When a geriatric outpatient nurse clinic is conducted
110 | in accordance with rules adopted by the agency, outpatients
111 | attending such clinic shall not be counted as part of the general
112 | resident population of the nursing home facility, nor shall the
113 | nursing staff of the geriatric outpatient clinic be counted as
114 | part of the nursing staff of the facility, until the outpatient
115 | clinic load exceeds 15 a day.

116 | (6) Be allowed and encouraged by the agency to provide

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

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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 under
150 chapter 651 or a retirement community that offers other services
151 pursuant to part III of this chapter or part I or part III of
152 chapter 429 on a single campus, be allowed to share programming
153 and staff. At the time of inspection and in the semiannual report
154 required pursuant to subsection (15), a continuing care facility
155 or retirement community that uses this option must demonstrate
156 through staffing records that minimum staffing requirements for
157 the facility were met. Licensed nurses and certified nursing
158 assistants who work in the nursing home facility may be used to
159 provide services elsewhere on campus if the facility exceeds the
160 minimum number of direct care hours required per resident per day
161 and the total number of residents receiving direct care services
162 from a licensed nurse or a certified nursing assistant does not
163 cause the facility to violate the staffing ratios required under
164 s. 400.23(3)(a). Compliance with the minimum staffing ratios
165 shall be based on total number of residents receiving direct care
166 services, regardless of where they reside on campus. If the
167 facility receives a conditional license, it may not share staff
168 until the conditional license status ends. This subsection does
169 not restrict the agency's authority under federal or state law to
170 require additional staff if a facility is cited for deficiencies
171 in care which are caused by an insufficient number of certified
172 nursing assistants or licensed nurses. The agency may adopt rules
173 for the documentation necessary to determine compliance with this
174 provision.

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

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

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

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

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

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204 showing that the facility maliciously falsified such records.

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

213 (14) Submit to the agency the information specified in s.
214 400.071(1)(b) for a management company within 30 days after the
215 effective date of the management agreement.

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

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

226 (b) Staff turnover must be reported for the most recent 12-
227 month period ending on the last workday of the most recent
228 calendar quarter prior to the date the information is submitted.
229 The turnover rate must be computed quarterly, with the annual
230 rate being the cumulative sum of the quarterly rates. The
231 turnover rate is the total number of terminations or separations
232 experienced during the quarter, excluding any employee terminated

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233 during a probationary period of 3 months or less, divided by the
234 total number of staff employed at the end of the period for which
235 the rate is computed, and expressed as a percentage.

236 (c) The formula for determining staff stability is the
237 total number of employees that have been employed for more than
238 12 months, divided by the total number of employees employed at
239 the end of the most recent calendar quarter, and expressed as a
240 percentage.

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

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

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

258
259 Nothing in this section shall limit the agency's ability to
260 impose a deficiency or take other actions if a facility does not
261 have enough staff to meet the residents' needs.

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

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

274 (18) If the facility implements a dining and hospitality
275 attendant program, ensure that the program is developed and
276 implemented under the supervision of the facility director of
277 nursing. A licensed nurse, licensed speech or occupational
278 therapist, or a registered dietitian must conduct training of
279 dining and hospitality attendants. A person employed by a
280 facility as a dining and hospitality attendant must perform tasks
281 under the direct supervision of a licensed nurse.

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

286 (20) Maintain general and professional liability insurance
287 coverage that is in force at all times. In lieu of general and
288 professional liability insurance coverage, a state-designated
289 teaching nursing home and its affiliated assisted living
290 facilities created under s. 430.80 may demonstrate proof of

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291 financial responsibility as provided in s. 430.80(3)(h).

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

301 (22) Before November 30 of each year, subject to the
302 availability of an adequate supply of the necessary vaccine,
303 provide for immunizations against influenza viruses to all its
304 consenting residents in accordance with the recommendations of
305 the United States Centers for Disease Control and Prevention,
306 subject to exemptions for medical contraindications and religious
307 or personal beliefs. Subject to these exemptions, any consenting
308 person who becomes a resident of the facility after November 30
309 but before March 31 of the following year must be immunized
310 within 5 working days after becoming a resident. Immunization
311 shall not be provided to any resident who provides documentation
312 that he or she has been immunized as required by this subsection.
313 This subsection does not prohibit a resident from receiving the
314 immunization from his or her personal physician if he or she so
315 chooses. A resident who chooses to receive the immunization from
316 his or her personal physician shall provide proof of immunization
317 to the facility. The agency may adopt and enforce any rules
318 necessary to comply with or implement this subsection.

319 (23) Assess all residents for eligibility for pneumococcal

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320 polysaccharide vaccination (PPV) and vaccinate residents when
321 indicated within 60 days after the effective date of this act in
322 accordance with the recommendations of the United States Centers
323 for Disease Control and Prevention, subject to exemptions for
324 medical contraindications and religious or personal beliefs.
325 Residents admitted after the effective date of this act shall be
326 assessed within 5 working days of admission and, when indicated,
327 vaccinated within 60 days in accordance with the recommendations
328 of the United States Centers for Disease Control and Prevention,
329 subject to exemptions for medical contraindications and religious
330 or personal beliefs. Immunization shall not be provided to any
331 resident who provides documentation that he or she has been
332 immunized as required by this subsection. This subsection does
333 not prohibit a resident from receiving the immunization from his
334 or her personal physician if he or she so chooses. A resident who
335 chooses to receive the immunization from his or her personal
336 physician shall provide proof of immunization to the facility.
337 The agency may adopt and enforce any rules necessary to comply
338 with or implement this subsection.

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

345
346 Facilities having a standard license ~~that have been awarded a~~
347 ~~Gold Seal under the program established in s. 400.235~~ may develop
348 a plan to provide certified nursing assistant training as

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349 | prescribed by federal regulations and state rules and may apply
350 | to the agency for approval of their program. The agency may adopt
351 | rules relating to the approval, suspension, or termination of a
352 | certified nursing assistant training program.

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

355 | 400.147 Internal risk management and quality assurance
356 | program.--

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

359 | (a) An event over which facility personnel could exercise
360 | control and which is associated in whole or in part with the
361 | facility's intervention, rather than the condition for which such
362 | intervention occurred, and which results in one of the following:

- 363 | 1. Death;
- 364 | 2. Brain or spinal damage;
- 365 | 3. Permanent disfigurement;
- 366 | 4. Fracture or dislocation of bones or joints;
- 367 | 5. A limitation of neurological, physical, or sensory
368 | function;

- 369 | 6. Any condition that required medical attention to which
370 | the resident has not given his or her informed consent, including
371 | failure to honor advanced directives; or

- 372 | 7. Any condition that required the transfer of the
373 | resident, within or outside the facility, to a unit providing a
374 | more acute level of care due to the adverse incident, rather than
375 | the resident's condition prior to the adverse incident;

376 | (b) Abuse, neglect, or exploitation as defined in s.
377 | 415.102;

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- 378 (c) Abuse, neglect and harm as defined in s. 39.01;
- 379 (d) Resident elopement; or
- 380 (e) An event that is reported to a law enforcement agency
- 381 for investigation.
- 382 (6) The internal risk manager of each licensed facility
- 383 shall:
- 384 (a) Investigate every allegation of sexual misconduct which
- 385 is made against a member of the facility's personnel who has
- 386 direct patient contact when the allegation is that the sexual
- 387 misconduct occurred at the facility or at the grounds of the
- 388 facility;
- 389 (b) Report every allegation of sexual misconduct to the
- 390 administrator of the licensed facility; and
- 391 (c) Notify the resident representative or guardian of the
- 392 victim that an allegation of sexual misconduct has been made and
- 393 that an investigation is being conducted.
- 394 (7) (a) The facility shall initiate an investigation ~~and~~
- 395 ~~shall notify the agency within 1 business day after the risk~~
- 396 ~~manager or his or her designee has received a report pursuant to~~
- 397 ~~paragraph (1) (d). The notification must be made in writing and be~~
- 398 ~~provided electronically, by facsimile device or overnight mail~~
- 399 ~~delivery. The notification must include information regarding the~~
- 400 ~~identity of the affected resident, the type of adverse incident,~~
- 401 ~~the initiation of an investigation by the facility, and whether~~
- 402 ~~the events causing or resulting in the adverse incident represent~~
- 403 ~~a potential risk to any other resident. The notification is~~
- 404 ~~confidential as provided by law and is not discoverable or~~
- 405 ~~admissible in any civil or administrative action, except in~~
- 406 ~~disciplinary proceedings by the agency or the appropriate~~

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407 ~~regulatory board. The agency may investigate, as it deems~~
408 ~~appropriate, any such incident and prescribe measures that must~~
409 ~~or may be taken in response to the incident. The agency shall~~
410 ~~review each incident and determine whether it potentially~~
411 ~~involved conduct by the health care professional who is subject~~
412 ~~to disciplinary action, in which case the provisions of s.~~
413 ~~456.073 shall apply.~~

414 (b) ~~(8)~~ ~~(a)~~ Each facility shall complete the investigation
415 and submit an adverse incident report to the agency for each
416 adverse incident within 15 calendar days after its occurrence.
417 If, after a complete investigation, the risk manager determines
418 that the incident was ~~not~~ an adverse incident as defined in
419 subsection (5), the facility shall include this information in
420 the report. The agency shall develop a form for reporting this
421 information.

422 (c) ~~(b)~~ The information reported to the agency pursuant to
423 paragraph (b) ~~(a)~~ which relates to persons licensed under chapter
424 458, chapter 459, chapter 461, or chapter 466 shall be reviewed
425 by the agency. The agency shall determine whether any of the
426 incidents potentially involved conduct by a health care
427 professional who is subject to disciplinary action, in which case
428 the provisions of s. 456.073 shall apply.

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

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

435 (8) ~~(9)~~ By the 10th of each month, each facility subject to

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436 | this section shall report any notice received pursuant to s.
437 | 400.0233(2) and each initial complaint that was filed with the
438 | clerk of the court and served on the facility during the previous
439 | month by a resident or a resident's family member, guardian,
440 | conservator, or personal legal representative. The report must
441 | include the name of the resident, the resident's date of birth
442 | and social security number, the Medicaid identification number
443 | for Medicaid-eligible persons, the date or dates of the incident
444 | leading to the claim or dates of residency, if applicable, and
445 | the type of injury or violation of rights alleged to have
446 | occurred. Each facility shall also submit a copy of the notices
447 | received pursuant to s. 400.0233(2) and complaints filed with the
448 | clerk of the court. This report is confidential as provided by
449 | law and is not discoverable or admissible in any civil or
450 | administrative action, except in such actions brought by the
451 | agency to enforce the provisions of this part.

452 | (9)~~(10)~~ The agency shall review, as part of its licensure
453 | inspection process, the internal risk management and quality
454 | assurance program at each facility regulated by this section to
455 | determine whether the program meets standards established in
456 | statutory laws and rules, is being conducted in a manner designed
457 | to reduce adverse incidents, and is appropriately reporting
458 | incidents as required by this section.

459 | (10)~~(11)~~ There is no monetary liability on the part of, and
460 | a cause of action for damages may not arise against, any risk
461 | manager for the implementation and oversight of the internal risk
462 | management and quality assurance program in a facility licensed
463 | under this part as required by this section, or for any act or
464 | proceeding undertaken or performed within the scope of the

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465 functions of such internal risk management and quality assurance
466 program if the risk manager acts without intentional fraud.

467 (11)~~(12)~~ If the agency, through its receipt of the adverse
468 incident reports prescribed in subsection (7), or through any
469 investigation, has a reasonable belief that conduct by a staff
470 member or employee of a facility is grounds for disciplinary
471 action by the appropriate regulatory board, the agency shall
472 report this fact to the regulatory board.

473 (12)~~(13)~~ The agency may adopt rules to administer this
474 section.

475 (13)~~(14)~~ The agency shall annually submit to the
476 Legislature a report on nursing home adverse incidents. The
477 report must include the following information arranged by county:

478 (a) The total number of adverse incidents.

479 (b) A listing, by category, of the types of adverse
480 incidents, the number of incidents occurring within each
481 category, and the type of staff involved.

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

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

486 (e) Disciplinary action taken against staff, categorized by
487 type of staff involved.

488 (14)~~(15)~~ Information gathered by a credentialing
489 organization under a quality assurance program is not
490 discoverable from the credentialing organization. This subsection
491 does not limit discovery of, access to, or use of facility
492 records, including those records from which the credentialing
493 organization gathered its information.

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

496 400.19 Right of entry and inspection.--

497 (3) The agency shall every 15 months conduct at least one
498 unannounced inspection to determine compliance by the licensee
499 with statutes, and with rules adopted ~~promulgated~~ under the
500 provisions of those statutes, governing minimum standards of
501 construction, quality and adequacy of care, and rights of
502 residents. The survey shall be conducted every 6 months for the
503 next 2-year period if the facility has been cited for a class I
504 deficiency, has been cited for two or more class II deficiencies
505 arising from separate surveys or investigations within a 60-day
506 period, or has had three or more substantiated complaints within
507 a 6-month period, each resulting in at least one class I or class
508 II deficiency. In addition to any other fees or fines in this
509 part, the agency shall assess a fine for each facility that is
510 subject to the 6-month survey cycle. The fine for the 2-year
511 period shall be \$6,000, one-half to be paid at the completion of
512 each survey. The agency may adjust this fine by the change in the
513 Consumer Price Index, based on the 12 months immediately
514 preceding the increase, to cover the cost of the additional
515 surveys. If such deficiencies are overturned as the result of
516 administrative action but additional surveys have already been
517 conducted pursuant to this section, the most recent survey shall
518 be considered a licensure survey for purposes of scheduling
519 future surveys. The agency shall verify through subsequent
520 inspection that any deficiency identified during inspection is
521 corrected. However, the agency may verify the correction of a
522 class III or class IV deficiency unrelated to resident rights or

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523 resident care without reinspecting the facility if adequate
524 written documentation has been received from the facility, which
525 provides assurance that the deficiency has been corrected. The
526 giving or causing to be given of advance notice of such
527 unannounced inspections by an employee of the agency to any
528 unauthorized person shall constitute cause for suspension of not
529 fewer than 5 working days according to the provisions of chapter
530 110.

531 Section 5. Paragraph (d) of subsection (1) of section
532 400.195, Florida Statutes, is amended to read:

533 400.195 Agency reporting requirements.--

534 (1) For the period beginning June 30, 2001, and ending June
535 30, 2005, the Agency for Health Care Administration shall provide
536 a report to the Governor, the President of the Senate, and the
537 Speaker of the House of Representatives with respect to nursing
538 homes. The first report shall be submitted no later than
539 December 30, 2002, and subsequent reports shall be submitted
540 every 6 months thereafter. The report shall identify facilities
541 based on their ownership characteristics, size, business
542 structure, for-profit or not-for-profit status, and any other
543 characteristics the agency determines useful in analyzing the
544 varied segments of the nursing home industry and shall report:

545 (d) Information regarding deficiencies cited, including
546 information used to develop the Nursing Home Guide WATCH LIST
547 pursuant to s. 400.191, and applicable rules, a summary of data
548 generated on nursing homes by Centers for Medicare and Medicaid
549 Services Nursing Home Quality Information Project, and
550 information collected pursuant to s. 400.147(8) ~~s. 400.147(9)~~,
551 relating to litigation.

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552 Section 6. Paragraph (a) of subsection (3) of section
553 400.23, Florida Statutes, is amended to read:

554 400.23 Rules; evaluation and deficiencies; licensure
555 status.--

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

559 a. A minimum certified nursing assistant staffing of 2.6
560 hours of direct care per resident per day beginning January 1,
561 2003, and increasing to 2.7 hours of direct care per resident per
562 day beginning January 1, 2007. Beginning January 1, 2002, a ~~no~~
563 facility may not ~~shall~~ staff below one certified nursing
564 assistant per 20 residents, and must provide a minimum licensed
565 nursing staffing of 1.0 hour of direct care per resident per day
566 but never below one licensed nurse per 40 residents.

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

571 2. Nursing assistants employed under s. 400.211(2) may be
572 included in computing the staffing ratio for certified nursing
573 assistants only if their job responsibilities include only
574 nursing-assistant-related duties.

575 3. Each nursing home must document compliance with staffing
576 standards as required under this paragraph and post daily the
577 names of staff on duty for the benefit of facility residents and
578 the public. Compliance with federal posting requirements
579 satisfies the posting requirements in this subparagraph.

580 4. The agency shall recognize the use of licensed nurses

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581 | for compliance with minimum staffing requirements for certified
582 | nursing assistants, provided that the facility otherwise meets
583 | the minimum staffing requirements for licensed nurses and that
584 | the licensed nurses are performing the duties of a certified
585 | nursing assistant. ~~Unless otherwise approved by the agency,~~
586 | Licensed nurses counted toward the minimum staffing requirements
587 | for certified nursing assistants must exclusively perform the
588 | duties of a certified nursing assistant ~~for the entire shift~~ and
589 | not also be counted toward the minimum staffing requirements for
590 | licensed nurses. ~~If the agency approved a facility's request to~~
591 | ~~use a licensed nurse to perform both licensed nursing and~~
592 | ~~certified nursing assistant duties,~~ The facility must allocate
593 | the amount of staff time specifically spent on certified nursing
594 | assistant duties for the purpose of documenting compliance with
595 | minimum staffing requirements for certified and licensed nursing
596 | staff. In no event may the hours of a licensed nurse with dual
597 | job responsibilities be counted twice.

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