

By the Committee on Health Regulation; and Senator Bennett

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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 agency approval of training programs; amending s. 400.147,
7 F.S.; redefining the term "adverse incident"; deleting the
8 requirement that a nursing facility notify the agency of
9 an adverse incident; deleting notification requirements;
10 requiring that a risk manager determine if an incident was
11 an adverse incident; providing that federal reporting
12 requirements are not affected; amending s. 400.19, F.S.;
13 providing that the most recent survey is a licensure
14 survey under certain conditions for purposes of future
15 survey scheduling; amending s. 400.195, F.S., relating to
16 agency reporting requirements; conforming a cross-
17 reference; amending s. 400.23, F.S.; providing that
18 compliance with federal posting requirements for staffing
19 standards satisfies state posting requirements; deleting
20 provisions requiring agency approval in order for a
21 nursing home to use licensed nurses to perform certain
22 duties; providing an effective date.

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

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

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

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30 applicable standards and rules of the agency and shall:

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

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

36 (3) Have available the regular, consultative, and emergency
37 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 her
50 retirement benefits, a qualified pension plan as specified in s.
51 4972 of the Internal Revenue Code, a federal retirement program
52 as specified under 5 C.F.R. s. 831, or a long-term care policy as
53 defined in s. 627.9404(1). A pharmacist who correctly repackages
54 and relabels the medication and the nursing facility which
55 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

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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 general
73 resident population of the nursing home facility, nor shall the
74 nursing staff of the geriatric outpatient clinic be counted as
75 part of the nursing staff of the facility, until the outpatient
76 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. Respite

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88 care must be provided in accordance with this part and rules
89 adopted by the agency. However, the agency shall, by rule, adopt
90 modified requirements for resident assessment, resident care
91 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 counted
99 as a resident of the facility for purposes of the facility's
100 licensed capacity unless that person receives 24-hour respite
101 care. A person receiving either respite care for 24 hours or
102 longer or adult day services must be included when calculating
103 minimum staffing for the facility. Any costs and revenues
104 generated by a nursing home facility from nonresidential programs
105 or services shall be excluded from the calculations of Medicaid
106 per diems for nursing home institutional care reimbursement.

107 (7) If the facility has a standard license or is a Gold
108 Seal facility, exceeds the minimum required hours of licensed
109 nursing and certified nursing assistant direct care per resident
110 per day, and is part of a continuing care facility licensed under
111 chapter 651 or a retirement community that offers other services
112 pursuant to part III of this chapter or part I or part III of
113 chapter 429 on a single campus, be allowed to share programming
114 and staff. At the time of inspection and in the semiannual report
115 required pursuant to subsection (15), a continuing care facility
116 or retirement community that uses this option must demonstrate

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

136 | (8) Maintain the facility premises and equipment and
137 | conduct its operations in a safe and sanitary manner.

138 | (9) If the licensee furnishes food service, provide a
139 | wholesome and nourishing diet sufficient to meet generally
140 | accepted standards of proper nutrition for its residents and
141 | provide such therapeutic diets as may be prescribed by attending
142 | physicians. In making rules to implement this subsection, the
143 | agency shall be guided by standards recommended by nationally
144 | recognized professional groups and associations with knowledge of
145 | dietetics.

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

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

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

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

174 (14) Submit to the agency the information specified in s.

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175 400.071(1)(b) for a management company within 30 days after the
176 effective date of the management agreement.

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

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

187 (b) Staff turnover must be reported for the most recent 12-
188 month period ending on the last workday of the most recent
189 calendar quarter prior to the date the information is submitted.
190 The turnover rate must be computed quarterly, with the annual
191 rate being the cumulative sum of the quarterly rates. The
192 turnover rate is the total number of terminations or separations
193 experienced during the quarter, excluding any employee terminated
194 during a probationary period of 3 months or less, divided by the
195 total number of staff employed at the end of the period for which
196 the rate is computed, and expressed as a percentage.

197 (c) The formula for determining staff stability is the
198 total number of employees that have been employed for more than
199 12 months, divided by the total number of employees employed at
200 the end of the most recent calendar quarter, and expressed as a
201 percentage.

202 (d) A nursing facility that has failed to comply with state
203 minimum-staffing requirements for 2 consecutive days is

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204 prohibited from accepting new admissions until the facility has
205 achieved the minimum-staffing requirements for a period of 6
206 consecutive days. For the purposes of this paragraph, any person
207 who was a resident of the facility and was absent from the
208 facility for the purpose of receiving medical care at a separate
209 location or was on a leave of absence is not considered a new
210 admission. Failure to impose such an admissions moratorium
211 constitutes a class II deficiency.

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

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

219

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

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

226 (17) Notify a licensed physician when a resident exhibits
227 signs of dementia or cognitive impairment or has a change of
228 condition in order to rule out the presence of an underlying
229 physiological condition that may be contributing to such dementia
230 or impairment. The notification must occur within 30 days after
231 the acknowledgment of such signs by facility staff. If an
232 underlying condition is determined to exist, the facility shall

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233 | arrange, with the appropriate health care provider, the necessary
234 | care and services to treat the condition.

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

243 | (19) Report to the agency any filing for bankruptcy
244 | protection by the facility or its parent corporation, divestiture
245 | or spin-off of its assets, or corporate reorganization within 30
246 | days after the completion of such activity.

247 | (20) Maintain general and professional liability insurance
248 | coverage that is in force at all times. In lieu of general and
249 | professional liability insurance coverage, a state-designated
250 | teaching nursing home and its affiliated assisted living
251 | facilities created under s. 430.80 may demonstrate proof of
252 | financial responsibility as provided in s. 430.80(3)(h).

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

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

280 (23) Assess all residents for eligibility for pneumococcal
281 polysaccharide vaccination (PPV) and vaccinate residents when
282 indicated within 60 days after the effective date of this act in
283 accordance with the recommendations of the United States Centers
284 for Disease Control and Prevention, subject to exemptions for
285 medical contraindications and religious or personal beliefs.
286 Residents admitted after the effective date of this act shall be
287 assessed within 5 working days of admission and, when indicated,
288 vaccinated within 60 days in accordance with the recommendations
289 of the United States Centers for Disease Control and Prevention,
290 subject to exemptions for medical contraindications and religious

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291 or personal beliefs. Immunization shall not be provided to any
292 resident who provides documentation that he or she has been
293 immunized as required by this subsection. This subsection does
294 not prohibit a resident from receiving the immunization from his
295 or her personal physician if he or she so chooses. A resident who
296 chooses to receive the immunization from his or her personal
297 physician shall provide proof of immunization to the facility.
298 The agency may adopt and enforce any rules necessary to comply
299 with or implement this subsection.

300 (24) Annually encourage and promote to its employees the
301 benefits associated with immunizations against influenza viruses
302 in accordance with the recommendations of the United States
303 Centers for Disease Control and Prevention. The agency may adopt
304 and enforce any rules necessary to comply with or implement this
305 subsection.

306
307 Facilities having a standard license ~~that have been awarded a~~
308 ~~Gold Seal under the program established in s. 400.235~~ may develop
309 a plan to provide certified nursing assistant training as
310 prescribed by federal regulations and state rules and may apply
311 to the agency for approval of their program. The agency may adopt
312 rules relating to the approval, suspension, or termination of a
313 certified nursing assistant training program.

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

316 400.147 Internal risk management and quality assurance
317 program.--

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

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

- 324 1. Death;
- 325 2. Brain or spinal damage;
- 326 3. Permanent disfigurement;
- 327 4. Fracture or dislocation of bones or joints;
- 328 5. A limitation of neurological, physical, or sensory
329 function;

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

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

337 (b) Abuse, neglect, or exploitation as defined in s.
338 415.102;

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

340 (d) Resident elopement; or

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

343 (6) The internal risk manager of each licensed facility
344 shall:

345 (a) Investigate every allegation of sexual misconduct which
346 is made against a member of the facility's personnel who has
347 direct patient contact when the allegation is that the sexual
348 misconduct occurred at the facility or at the grounds of the

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349 facility;

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

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

355 (7) (a) The facility shall initiate an investigation ~~and~~
356 ~~shall notify the agency~~ within 1 business day after the risk
357 manager or his or her designee has received a report pursuant to
358 paragraph (1) (d). ~~The notification must be made in writing and be~~
359 ~~provided electronically, by facsimile device or overnight mail~~
360 ~~delivery. The notification must include information regarding the~~
361 ~~identity of the affected resident, the type of adverse incident,~~
362 ~~the initiation of an investigation by the facility, and whether~~
363 ~~the events causing or resulting in the adverse incident represent~~
364 ~~a potential risk to any other resident. The notification is~~
365 ~~confidential as provided by law and is not discoverable or~~
366 ~~admissible in any civil or administrative action, except in~~
367 ~~disciplinary proceedings by the agency or the appropriate~~
368 ~~regulatory board. The agency may investigate, as it deems~~
369 ~~appropriate, any such incident and prescribe measures that must~~
370 ~~or may be taken in response to the incident. The agency shall~~
371 ~~review each incident and determine whether it potentially~~
372 ~~involved conduct by the health care professional who is subject~~
373 ~~to disciplinary action, in which case the provisions of s.~~
374 ~~456.073 shall apply.~~

375 (b) ~~(8) (a)~~ Each facility shall complete the investigation
376 and submit an adverse incident report to the agency for each
377 adverse incident within 15 calendar days after its occurrence.

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378 If, after a complete investigation, the risk manager determines
379 that the incident was ~~not~~ an adverse incident as defined in
380 subsection (5), the facility shall include this information in
381 the report. The agency shall develop a form for reporting this
382 information.

383 (c) ~~(b)~~ The information reported to the agency pursuant to
384 paragraph (b) ~~(a)~~ which relates to persons licensed under chapter
385 458, chapter 459, chapter 461, or chapter 466 shall be reviewed
386 by the agency. The agency shall determine whether any of the
387 incidents potentially involved conduct by a health care
388 professional who is subject to disciplinary action, in which case
389 the provisions of s. 456.073 shall apply.

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

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

396 (f) Federal reporting requirements are not affected by
397 provisions in this subsection.

398 (8) ~~(9)~~ By the 10th of each month, each facility subject to
399 this section shall report any notice received pursuant to s.
400 400.0233(2) and each initial complaint that was filed with the
401 clerk of the court and served on the facility during the previous
402 month by a resident or a resident's family member, guardian,
403 conservator, or personal legal representative. The report must
404 include the name of the resident, the resident's date of birth
405 and social security number, the Medicaid identification number
406 for Medicaid-eligible persons, the date or dates of the incident

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407 | leading to the claim or dates of residency, if applicable, and
408 | the type of injury or violation of rights alleged to have
409 | occurred. Each facility shall also submit a copy of the notices
410 | received pursuant to s. 400.0233(2) and complaints filed with the
411 | clerk of the court. This report is confidential as provided by
412 | law and is not discoverable or admissible in any civil or
413 | administrative action, except in such actions brought by the
414 | agency to enforce the provisions of this part.

415 | (9)~~(10)~~ The agency shall review, as part of its licensure
416 | inspection process, the internal risk management and quality
417 | assurance program at each facility regulated by this section to
418 | determine whether the program meets standards established in
419 | statutory laws and rules, is being conducted in a manner designed
420 | to reduce adverse incidents, and is appropriately reporting
421 | incidents as required by this section.

422 | (10)~~(11)~~ There is no monetary liability on the part of, and
423 | a cause of action for damages may not arise against, any risk
424 | manager for the implementation and oversight of the internal risk
425 | management and quality assurance program in a facility licensed
426 | under this part as required by this section, or for any act or
427 | proceeding undertaken or performed within the scope of the
428 | functions of such internal risk management and quality assurance
429 | program if the risk manager acts without intentional fraud.

430 | (11)~~(12)~~ If the agency, through its receipt of the adverse
431 | incident reports prescribed in subsection (7), or through any
432 | investigation, has a reasonable belief that conduct by a staff
433 | member or employee of a facility is grounds for disciplinary
434 | action by the appropriate regulatory board, the agency shall
435 | report this fact to the regulatory board.

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436 (12)~~(13)~~ The agency may adopt rules to administer this
437 section.

438 (13)~~(14)~~ The agency shall annually submit to the
439 Legislature a report on nursing home adverse incidents. The
440 report must include the following information arranged by county:

441 (a) The total number of adverse incidents.

442 (b) A listing, by category, of the types of adverse
443 incidents, the number of incidents occurring within each
444 category, and the type of staff involved.

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

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

449 (e) Disciplinary action taken against staff, categorized by
450 type of staff involved.

451 (14)~~(15)~~ Information gathered by a credentialing
452 organization under a quality assurance program is not
453 discoverable from the credentialing organization. This subsection
454 does not limit discovery of, access to, or use of facility
455 records, including those records from which the credentialing
456 organization gathered its information.

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

459 400.19 Right of entry and inspection.--

460 (3) The agency shall every 15 months conduct at least one
461 unannounced inspection to determine compliance by the licensee
462 with statutes, and with rules adopted ~~promulgated~~ under the
463 provisions of those statutes, governing minimum standards of
464 construction, quality and adequacy of care, and rights of

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

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494 Section 4. Paragraph (d) of subsection (1) of section
495 400.195, Florida Statutes, is amended to read:

496 400.195 Agency reporting requirements.--

497 (1) For the period beginning June 30, 2001, and ending June
498 30, 2005, the Agency for Health Care Administration shall provide
499 a report to the Governor, the President of the Senate, and the
500 Speaker of the House of Representatives with respect to nursing
501 homes. The first report shall be submitted no later than
502 December 30, 2002, and subsequent reports shall be submitted
503 every 6 months thereafter. The report shall identify facilities
504 based on their ownership characteristics, size, business
505 structure, for-profit or not-for-profit status, and any other
506 characteristics the agency determines useful in analyzing the
507 varied segments of the nursing home industry and shall report:

508 (d) Information regarding deficiencies cited, including
509 information used to develop the Nursing Home Guide WATCH LIST
510 pursuant to s. 400.191, and applicable rules, a summary of data
511 generated on nursing homes by Centers for Medicare and Medicaid
512 Services Nursing Home Quality Information Project, and
513 information collected pursuant to s. 400.147(8) ~~s. 400.147(9)~~,
514 relating to litigation.

515 Section 5. Paragraph (a) of subsection (3) of section
516 400.23, Florida Statutes, is amended to read:

517 400.23 Rules; evaluation and deficiencies; licensure
518 status.--

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

522 a. A minimum certified nursing assistant staffing of 2.6

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523 hours of direct care per resident per day beginning January 1,
524 2003, and increasing to 2.7 hours of direct care per resident per
525 day beginning January 1, 2007. Beginning January 1, 2002, ~~a ne~~
526 facility may not ~~shall~~ staff below one certified nursing
527 assistant per 20 residents, and must provide a minimum licensed
528 nursing staffing of 1.0 hour of direct care per resident per day
529 but never below one licensed nurse per 40 residents.

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

534 2. Nursing assistants employed under s. 400.211(2) may be
535 included in computing the staffing ratio for certified nursing
536 assistants only if their job responsibilities include only
537 nursing-assistant-related duties.

538 3. Each nursing home must document compliance with staffing
539 standards as required under this paragraph and post daily the
540 names of staff on duty for the benefit of facility residents and
541 the public. Compliance with federal posting requirements
542 satisfies the posting requirements in this subparagraph.

543 4. The agency shall recognize the use of licensed nurses
544 for compliance with minimum staffing requirements for certified
545 nursing assistants, provided that the facility otherwise meets
546 the minimum staffing requirements for licensed nurses and that
547 the licensed nurses are performing the duties of a certified
548 nursing assistant. ~~Unless otherwise approved by the agency,~~
549 Licensed nurses counted toward the minimum staffing requirements
550 for certified nursing assistants must exclusively perform the
551 duties of a certified nursing assistant ~~for the entire shift~~ and

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552 | not also be counted toward the minimum staffing requirements for
553 | licensed nurses. ~~If the agency approved a facility's request to~~
554 | ~~use a licensed nurse to perform both licensed nursing and~~
555 | ~~certified nursing assistant duties,~~ The facility must allocate
556 | the amount of staff time specifically spent on certified nursing
557 | assistant duties for the purpose of documenting compliance with
558 | minimum staffing requirements for certified and licensed nursing
559 | staff. In no event may the hours of a licensed nurse with dual
560 | job responsibilities be counted twice.

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