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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.; deleting provisions  
18          requiring agency approval in order for a nursing home to  
19          use licensed nurses to perform certain duties; providing  
20          an effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1.   Section 400.141, Florida Statutes, is amended to  
25   read:

26           400.141   Administration and management of nursing home  
27   facilities.--Every licensed facility shall comply with all  
28   applicable standards and rules of the agency and shall:

29           (1)   Be under the administrative direction and charge of a

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30 licensed administrator.

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

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

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

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59 an explanation of the repackaging process and which notifies the  
60 resident of the immunities from liability provided herein. A  
61 pharmacist who repackages and relabels prescription medications,  
62 as authorized under this subsection, may charge a reasonable fee  
63 for costs resulting from the implementation of this provision.

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

75 (6) Be allowed and encouraged by the agency to provide  
76 other needed services under certain conditions. If the facility  
77 has a standard licensure status, and has had no class I or class  
78 II deficiencies during the past 2 years or has been awarded a  
79 Gold Seal under the program established in s. 400.235, it may be  
80 encouraged by the agency to provide services, including, but not  
81 limited to, respite and adult day services, which enable  
82 individuals to move in and out of the facility. A facility is  
83 not subject to any additional licensure requirements for  
84 providing these services. Respite care may be offered to persons  
85 in need of short-term or temporary nursing home services. Respite  
86 care must be provided in accordance with this part and rules  
87 adopted by the agency. However, the agency shall, by rule, adopt

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

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

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

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

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

144 (10) Keep full records of resident admissions and  
145 discharges; medical and general health status, including medical

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

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

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

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

172 (14) Submit to the agency the information specified in s.  
173 400.071(1)(b) for a management company within 30 days after the  
174 effective date of the management agreement.

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

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

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

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

200 (d) A nursing facility that has failed to comply with state  
201 minimum-staffing requirements for 2 consecutive days is  
202 prohibited from accepting new admissions until the facility has  
203 achieved the minimum-staffing requirements for a period of 6

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

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

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

217

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

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

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



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

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

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

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

260 (22) Before November 30 of each year, subject to the  
261 availability of an adequate supply of the necessary vaccine,

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

278 (23) Assess all residents for eligibility for pneumococcal  
279 polysaccharide vaccination (PPV) and vaccinate residents when  
280 indicated within 60 days after the effective date of this act in  
281 accordance with the recommendations of the United States Centers  
282 for Disease Control and Prevention, subject to exemptions for  
283 medical contraindications and religious or personal beliefs.  
284 Residents admitted after the effective date of this act shall be  
285 assessed within 5 working days of admission and, when indicated,  
286 vaccinated within 60 days in accordance with the recommendations  
287 of the United States Centers for Disease Control and Prevention,  
288 subject to exemptions for medical contraindications and religious  
289 or personal beliefs. Immunization shall not be provided to any  
290 resident who provides documentation that he or she has been

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

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

304  
305 Facilities having a standard license ~~that have been awarded a~~  
306 ~~Gold Seal under the program established in s. 400.235~~ may develop  
307 a plan to provide certified nursing assistant training as  
308 prescribed by federal regulations and state rules and may apply  
309 to the agency for approval of their program. The agency may adopt  
310 rules relating to the approval, suspension, or termination of a  
311 certified nursing assistant training program.

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

314 400.147 Internal risk management and quality assurance  
315 program.--

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

318 (a) An event over which facility personnel could exercise  
319 control and which is associated in whole or in part with the

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320 facility's intervention, rather than the condition for which such  
321 intervention occurred, and which results in one of the following:

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

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

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

335 (b) Abuse, neglect, or exploitation as defined in s.  
336 415.102;

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

338 (d) Resident elopement; or

339 (e) An event that is reported to a law enforcement agency  
340 regarding a resident, other than a request for transportation.

341 (6) The internal risk manager of each licensed facility  
342 shall:

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

348 (b) Report every allegation of sexual misconduct to the

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349 administrator of the licensed facility; and

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

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

373 (b)(8)(a) Each facility shall complete the investigation  
374 and submit an adverse incident report to the agency for each  
375 adverse incident within 15 calendar days after its occurrence.  
376 If, after a complete investigation, the risk manager determines  
377 that the incident was ~~not~~ an adverse incident as defined in

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378 subsection (5), the facility shall include this information in  
379 the report. The agency shall develop a form for reporting this  
380 information.

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

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

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

394 (f) Federal reporting requirements are not affected by  
395 provisions in this subsection.

396 (8)~~(9)~~ By the 10th of each month, each facility subject to  
397 this section shall report any notice received pursuant to s.  
398 400.0233(2) and each initial complaint that was filed with the  
399 clerk of the court and served on the facility during the previous  
400 month by a resident or a resident's family member, guardian,  
401 conservator, or personal legal representative. The report must  
402 include the name of the resident, the resident's date of birth  
403 and social security number, the Medicaid identification number  
404 for Medicaid-eligible persons, the date or dates of the incident  
405 leading to the claim or dates of residency, if applicable, and  
406 the type of injury or violation of rights alleged to have

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407 occurred. Each facility shall also submit a copy of the notices  
408 received pursuant to s. 400.0233(2) and complaints filed with the  
409 clerk of the court. This report is confidential as provided by  
410 law and is not discoverable or admissible in any civil or  
411 administrative action, except in such actions brought by the  
412 agency to enforce the provisions of this part.

413 (9)~~(10)~~ The agency shall review, as part of its licensure  
414 inspection process, the internal risk management and quality  
415 assurance program at each facility regulated by this section to  
416 determine whether the program meets standards established in  
417 statutory laws and rules, is being conducted in a manner designed  
418 to reduce adverse incidents, and is appropriately reporting  
419 incidents as required by this section.

420 (10)~~(11)~~ There is no monetary liability on the part of, and  
421 a cause of action for damages may not arise against, any risk  
422 manager for the implementation and oversight of the internal risk  
423 management and quality assurance program in a facility licensed  
424 under this part as required by this section, or for any act or  
425 proceeding undertaken or performed within the scope of the  
426 functions of such internal risk management and quality assurance  
427 program if the risk manager acts without intentional fraud.

428 (11)~~(12)~~ If the agency, through its receipt of the adverse  
429 incident reports prescribed in subsection (7), or through any  
430 investigation, has a reasonable belief that conduct by a staff  
431 member or employee of a facility is grounds for disciplinary  
432 action by the appropriate regulatory board, the agency shall  
433 report this fact to the regulatory board.

434 (12)~~(13)~~ The agency may adopt rules to administer this  
435 section.

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436        ~~(13)-(14)~~ The agency shall annually submit to the  
437 Legislature a report on nursing home adverse incidents. The  
438 report must include the following information arranged by county:

439            (a) The total number of adverse incidents.

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

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

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

447            (e) Disciplinary action taken against staff, categorized by  
448 type of staff involved.

449        ~~(14)-(15)~~ Information gathered by a credentialing  
450 organization under a quality assurance program is not  
451 discoverable from the credentialing organization. This subsection  
452 does not limit discovery of, access to, or use of facility  
453 records, including those records from which the credentialing  
454 organization gathered its information.

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

457        400.19 Right of entry and inspection.--

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



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

492 Section 4. Paragraph (d) of subsection (1) of section  
493 400.195, Florida Statutes, is amended to read:

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494 400.195 Agency reporting requirements.--

495 (1) For the period beginning June 30, 2001, and ending June  
496 30, 2005, the Agency for Health Care Administration shall provide  
497 a report to the Governor, the President of the Senate, and the  
498 Speaker of the House of Representatives with respect to nursing  
499 homes. The first report shall be submitted no later than  
500 December 30, 2002, and subsequent reports shall be submitted  
501 every 6 months thereafter. The report shall identify facilities  
502 based on their ownership characteristics, size, business  
503 structure, for-profit or not-for-profit status, and any other  
504 characteristics the agency determines useful in analyzing the  
505 varied segments of the nursing home industry and shall report:

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

513 Section 5. Paragraph (a) of subsection (3) of section  
514 400.23, Florida Statutes, is amended to read:

515 400.23 Rules; evaluation and deficiencies; licensure  
516 status.--

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

520 a. A minimum certified nursing assistant staffing of 2.6  
521 hours of direct care per resident per day beginning January 1,  
522 2003, and increasing to 2.7 hours of direct care per resident per

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523 day beginning January 1, 2007. Beginning January 1, 2002, a ~~no~~  
524 facility may not ~~shall~~ staff below one certified nursing  
525 assistant per 20 residents, and must provide a minimum licensed  
526 nursing staffing of 1.0 hour of direct care per resident per day  
527 but never below one licensed nurse per 40 residents.

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

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

536 3. Each nursing home must document compliance with staffing  
537 standards as required under this paragraph and post daily the  
538 names of staff on duty for the benefit of facility residents and  
539 the public.

540 4. The agency shall recognize the use of licensed nurses  
541 for compliance with minimum staffing requirements for certified  
542 nursing assistants, provided that the facility otherwise meets  
543 the minimum staffing requirements for licensed nurses and that  
544 the licensed nurses are performing the duties of a certified  
545 nursing assistant. ~~Unless otherwise approved by the agency,~~  
546 Licensed nurses counted toward the minimum staffing requirements  
547 for certified nursing assistants must exclusively perform the  
548 duties of a certified nursing assistant for the entire shift and  
549 not also be counted toward the minimum staffing requirements for  
550 licensed nurses. ~~If the agency approved a facility's request to~~  
551 ~~use a licensed nurse to perform both licensed nursing and~~

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552 ~~certified nursing assistant duties,~~ The facility must allocate  
553 the amount of staff time specifically spent on certified nursing  
554 assistant duties for the purpose of documenting compliance with  
555 minimum staffing requirements for certified and licensed nursing  
556 staff. In no event may the hours of a licensed nurse with dual  
557 job responsibilities be counted twice.

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