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1
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 ne
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.