

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Gaetz offered the following:

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3 **Amendment (with title amendment)**

4 Between lines 4177 and 4178, insert:

5 Section 1. Paragraph (e) is added to subsection (8) of
6 section 400.23, Florida Statutes, to read:

7 400.23 Rules; evaluation and deficiencies; licensure
8 status.—

9 (8) The agency shall adopt rules pursuant to this part and
10 part II of chapter 408 to provide that, when the criteria
11 established under subsection (2) are not met, such deficiencies
12 shall be classified according to the nature and the scope of the
13 deficiency. The scope shall be cited as isolated, patterned, or
14 widespread. An isolated deficiency is a deficiency affecting one
15 or a very limited number of residents, or involving one or a
16 very limited number of staff, or a situation that occurred only
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Amendment No.

17 occasionally or in a very limited number of locations. A
18 patterned deficiency is a deficiency where more than a very
19 limited number of residents are affected, or more than a very
20 limited number of staff are involved, or the situation has
21 occurred in several locations, or the same resident or residents
22 have been affected by repeated occurrences of the same deficient
23 practice but the effect of the deficient practice is not found
24 to be pervasive throughout the facility. A widespread deficiency
25 is a deficiency in which the problems causing the deficiency are
26 pervasive in the facility or represent systemic failure that has
27 affected or has the potential to affect a large portion of the
28 facility's residents. The agency shall indicate the
29 classification on the face of the notice of deficiencies as
30 follows:

31 (e) A deficiency identified by the agency in a nursing
32 home survey is not admissible for any purpose in an action under
33 ss. 400.023-400.0283. However, a survey deficiency citing a
34 resident on whose behalf the action is brought may be introduced
35 as evidence of negligence if the agency has determined that the
36 resident sustained actual harm as a result thereof. If a
37 claimant in an action under ss. 400-400.0238 was a member of a
38 survey resident roster or otherwise was the subject of any
39 survey by the agency and the agency did not allege or determine
40 that any deficiency occurred with respect to that claimant
41 during that survey, the licensee may introduce the absence of a
42 deficiency citation to refute an allegation of neglect or
43 noncompliance with regulatory standards.

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Amendment No.

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T I T L E A M E N D M E N T

Remove line 311 and insert:

Are not intended to be reset by this act; amending s. 400.23,
F.S.; providing that certain deficiencies are not admissible in
certain actions; providing exceptions; providing for certain