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LEGISLATIVE ACTION

Senate	.	House
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Floor: WD	.	
03/09/2012 05:47 PM	.	
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Senator Bogdanoff moved the following:

Senate Amendment (with title amendment)

Delete lines 86 - 121

and insert:

Section 2. Paragraphs (p), (q), (s), (t), (u), (v), (w) of subsection (1) of section 400.141, Florida Statutes, are redesignated as paragraphs (o), (p), (q), (r), (s), (t), and (u), respectively, and present paragraphs (g), (j), (n), (o), (p), (q), (r), and (s) of that subsection are amended, to read:

400.141 Administration and management of nursing home facilities.—

(1) Every licensed facility shall comply with all applicable standards and rules of the agency and shall:



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14 (g) If the facility has a standard license ~~or is a Gold~~
15 ~~Seal facility~~, exceeds the minimum required hours of licensed
16 nursing and certified nursing assistant direct care per resident
17 per day, and is part of a continuing care facility licensed
18 under chapter 651 or a retirement community that offers other
19 services pursuant to part III of this chapter or part I or part
20 III of chapter 429 on a single campus, be allowed to share
21 programming and staff. At the time of inspection ~~and in the~~
22 ~~semiannual report required pursuant to paragraph (e)~~, a
23 continuing care facility or retirement community that uses this
24 option must demonstrate through staffing records that minimum
25 staffing requirements for the facility were met. Licensed nurses
26 and certified nursing assistants who work in the ~~nursing home~~
27 facility may be used to provide services elsewhere on campus if
28 the facility exceeds the minimum number of direct care hours
29 required per resident per day and the total number of residents
30 receiving direct care services from a licensed nurse or a
31 certified nursing assistant does not cause the facility to
32 violate the staffing ratios required under s. 400.23(3)(a).
33 Compliance with the minimum staffing ratios must ~~shall~~ be based
34 on the total number of residents receiving direct care services,
35 regardless of where they reside on campus. If the facility
36 receives a conditional license, it may not share staff until the
37 conditional license status ends. This paragraph does not
38 restrict the agency's authority under federal or state law to
39 require additional staff if a facility is cited for deficiencies
40 in care which are caused by an insufficient number of certified
41 nursing assistants or licensed nurses. The agency may adopt
42 rules for the documentation necessary to determine compliance



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43 with this provision.

44 (j) Keep full records of resident admissions and
45 discharges; medical and general health status, including medical
46 records, personal and social history, and identity and address
47 of next of kin or other persons who may have responsibility for
48 the affairs of the resident ~~residents~~; and individual resident
49 care plans, including, but not limited to, prescribed services,
50 service frequency and duration, and service goals. The records
51 must shall be open to agency inspection ~~by the agency~~. The
52 licensee shall maintain clinical records on each resident in
53 accordance with accepted professional standards and practices,
54 which must be complete, accurately documented, readily
55 accessible, and systematically organized.

56 ~~(n) Submit to the agency the information specified in s.~~
57 ~~400.071(1)(b) for a management company within 30 days after the~~
58 ~~effective date of the management agreement.~~

59 ~~(o)1. Submit semiannually to the agency, or more frequently~~
60 ~~if requested by the agency, information regarding facility~~
61 ~~staff-to-resident ratios, staff turnover, and staff stability,~~
62 ~~including information regarding certified nursing assistants,~~
63 ~~licensed nurses, the director of nursing, and the facility~~
64 ~~administrator. For purposes of this reporting:~~

65 ~~a. Staff-to-resident ratios must be reported in the~~
66 ~~categories specified in s. 400.23(3)(a) and applicable rules.~~
67 ~~The ratio must be reported as an average for the most recent~~
68 ~~calendar quarter.~~

69 ~~b. Staff turnover must be reported for the most recent 12-~~
70 ~~month period ending on the last workday of the most recent~~
71 ~~calendar quarter prior to the date the information is submitted.~~



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72 ~~The turnover rate must be computed quarterly, with the annual~~
73 ~~rate being the cumulative sum of the quarterly rates. The~~
74 ~~turnover rate is the total number of terminations or separations~~
75 ~~experienced during the quarter, excluding any employee~~
76 ~~terminated during a probationary period of 3 months or less,~~
77 ~~divided by the total number of staff employed at the end of the~~
78 ~~period for which the rate is computed, and expressed as a~~
79 ~~percentage.~~

80 ~~e. The formula for determining staff stability is the total~~
81 ~~number of employees that have been employed for more than 12~~
82 ~~months, divided by the total number of employees employed at the~~
83 ~~end of the most recent calendar quarter, and expressed as a~~
84 ~~percentage.~~

85 (n) Comply with state minimum-staffing requirements:

86 ~~1.d.~~ A nursing facility that has failed to comply with
87 state minimum-staffing requirements for 2 consecutive days is
88 prohibited from accepting new admissions until the facility has
89 achieved the minimum-staffing requirements for ~~a period of 6~~
90 consecutive days. For the purposes of this subparagraph ~~sub-~~
91 ~~subparagraph~~, any person who was a resident of the facility and
92 was absent from the facility for the purpose of receiving
93 medical care at a separate location or was on a leave of absence
94 is not considered a new admission. Failure by the facility to
95 impose such an admissions moratorium is subject to a \$1,000 fine
96 ~~constitutes a class II deficiency.~~

97 ~~2.e.~~ A nursing facility that ~~which~~ does not have a
98 conditional license may be cited for failure to comply with the
99 standards in s. 400.23(3)(a)1.b. and c. only if it has failed to
100 meet those standards on 2 consecutive days or if it has failed



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101 to meet at least 97 percent of those standards on any one day.

102 ~~3.f.~~ A facility that ~~which~~ has a conditional license must
103 be in compliance with the standards in s. 400.23(3)(a) at all
104 times.

105 ~~2. This paragraph does not limit the agency's ability to~~
106 ~~impose a deficiency or take other actions if a facility does not~~
107 ~~have enough staff to meet the residents' needs.~~

108 ~~(o)~~ ~~(p)~~ Notify a licensed physician when a resident exhibits
109 signs of dementia or cognitive impairment or has a change of
110 condition in order to rule out the presence of an underlying
111 physiological condition that may be contributing to such
112 dementia or impairment. The notification must occur within 30
113 days after the acknowledgment of such signs by facility staff.
114 If an underlying condition is determined to exist, the facility
115 shall ~~arrange~~, with the appropriate health care provider,
116 arrange for the necessary care and services to treat the
117 condition.

118 ~~(p)~~ ~~(q)~~ If the facility implements a dining and hospitality
119 attendant program, ensure that the program is developed and
120 implemented under the supervision of the facility director of
121 nursing. A licensed nurse, licensed speech or occupational
122 therapist, or a registered dietitian must conduct training of
123 dining and hospitality attendants. A person employed by a
124 facility as a dining and hospitality attendant must perform
125 tasks under the direct supervision of a licensed nurse.

126 ~~(r) Report to the agency any filing for bankruptcy~~
127 ~~protection by the facility or its parent corporation,~~
128 ~~divestiture or spin-off of its assets, or corporate~~
129 ~~reorganization within 30 days after the completion of such~~



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130 ~~activity.~~

131 ~~(g)~~ ~~(s)~~ Maintain general and professional liability
132 insurance coverage that is in force at all times. In lieu of
133 such ~~general and professional liability insurance~~ coverage, a
134 state-designated teaching nursing home and its affiliated
135 assisted living facilities created under s. 430.80 may
136 demonstrate proof of financial responsibility as provided in s.
137 430.80(3)(g).

138 Section 3. Subsection (3) of section 430.80, Florida
139 Statutes, is amended to read:

140 430.80 Implementation of a teaching nursing home pilot
141 project.—

142 (3) To be designated as a teaching nursing home, a nursing
143 home licensee must, at a minimum:

144 (a) Provide a comprehensive program of integrated senior
145 services that include institutional services and community-based
146 services;

147 (b) Participate in a nationally recognized accreditation
148 program and hold a valid accreditation, such as the
149 accreditation awarded by the Joint Commission on Accreditation
150 of Healthcare Organizations, or, at the time of initial
151 designation, possess a Gold Seal Award as conferred by the state
152 on its licensed nursing home;

153 (c) Have been in business in this state for a minimum of 10
154 consecutive years;

155 (d) Demonstrate an active program in multidisciplinary
156 education and research that relates to gerontology;

157 (e) Have a formalized contractual relationship with at
158 least one accredited health profession education program located



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159 in this state;

160 (f) Have senior staff members who hold formal faculty
161 appointments at universities, which must include at least one
162 accredited health profession education program; and

163 (g) Maintain insurance coverage pursuant to s.
164 400.141(1)(q) ~~400.141(1)(s)~~ or proof of financial responsibility
165 in a minimum amount of \$750,000. Such proof of financial
166 responsibility may include:

167 1. Maintaining an escrow account consisting of cash or
168 assets eligible for deposit in accordance with s. 625.52; or

169 2. Obtaining and maintaining pursuant to chapter 675 an
170 unexpired, irrevocable, nontransferable and nonassignable letter
171 of credit issued by any bank or savings association organized
172 and existing under the laws of this state or any bank or savings
173 association organized under the laws of the United States which
174 ~~that~~ has its principal place of business in this state or has a
175 branch office that ~~which~~ is authorized to receive deposits in
176 this state. The letter of credit shall be used to satisfy the
177 obligation of the facility to the claimant upon presentment of a
178 final judgment indicating liability and awarding damages to be
179 paid by the facility or upon presentment of a settlement
180 agreement signed by all parties to the agreement if ~~when~~ such
181 final judgment or settlement is a result of a liability claim
182 against the facility.

183 Section 4. Paragraph (h) of subsection (2) of section
184 430.81, Florida Statutes, is amended to read:

185 430.81 Implementation of a teaching agency for home and
186 community-based care.—

187 (2) The Department of Elderly Affairs may designate a home



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188 health agency as a teaching agency for home and community-based
189 care if the home health agency:

190 (h) Maintains insurance coverage pursuant to s.
191 400.141(1)(g) ~~400.141(1)(s)~~ or proof of financial responsibility
192 in a minimum amount of \$750,000. Such proof of financial
193 responsibility may include:

- 194 1. Maintaining an escrow account consisting of cash or
195 assets eligible for deposit in accordance with s. 625.52; or
196 2. Obtaining and maintaining, pursuant to chapter 675, an
197 unexpired, irrevocable, nontransferable, and nonassignable
198 letter of credit issued by any bank or savings association
199 authorized to do business in this state. This letter of credit
200 shall be used to satisfy the obligation of the agency to the
201 claimant upon presentation of a final judgment indicating
202 liability and awarding damages to be paid by the facility or
203 upon presentment of a settlement agreement signed by all parties
204 to the agreement if ~~when~~ such final judgment or settlement is a
205 result of a liability claim against the agency.

206
207 ===== T I T L E A M E N D M E N T =====

208 And the title is amended as follows:

209 Delete line 10

210 and insert:

211 Administration; amending ss. 430.80 and 430.81, F.S.;

212 conforming cross-references; creating s. 400.172,

213 F.S.; providing