

By Senator Fasano

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1 A bill to be entitled  
2 An act relating to staffing requirements for nursing  
3 home facilities; amending s. 400.23, F.S.; revising  
4 the Agency for Health Care Administration's rulemaking  
5 authority relating to minimum staffing requirements  
6 for nursing home facilities; amending s. 400.141,  
7 F.S.; conforming a cross-reference; providing an  
8 appropriation; providing an effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Paragraph (a) of subsection (3) of section  
13 400.23, Florida Statutes, is amended to read:

14 400.23 Rules; evaluation and deficiencies; licensure  
15 status.-

16 (3)(a)1. The agency shall adopt rules providing minimum  
17 staffing requirements for nursing home facilities. These  
18 requirements must include, for each facility:

19 ~~a. A minimum weekly average of certified nursing assistant~~  
20 ~~and licensed nursing staffing combined of 3.6 hours of direct~~  
21 ~~care per resident per day. As used in this sub-subparagraph, a~~  
22 ~~week is defined as Sunday through Saturday.~~

23 a.b. A minimum certified nursing assistant staffing of 2.9  
24 2.5 hours of direct care per resident per day. A facility may  
25 not staff below one certified nursing assistant per 20  
26 residents.

27 ~~b.e.~~ A minimum licensed nursing staffing of 1.0 hour of  
28 direct care per resident per day. A facility may not staff below  
29 one licensed nurse per 40 residents.

11-00310D-12

20121332

30           2. Nursing assistants employed under s. 400.211(2) may be  
31 included in computing the staffing ratio for certified nursing  
32 assistants if their job responsibilities include only nursing-  
33 assistant-related duties.

34           3. Each nursing home facility must document compliance with  
35 staffing standards as required under this paragraph and post  
36 daily the names of staff on duty for the benefit of facility  
37 residents and the public.

38           4. The agency shall recognize the use of licensed nurses  
39 for compliance with minimum staffing requirements for certified  
40 nursing assistants if the nursing home facility otherwise meets  
41 the minimum staffing requirements for licensed nurses and the  
42 licensed nurses are performing the duties of a certified nursing  
43 assistant. Unless otherwise approved by the agency, licensed  
44 nurses counted toward the minimum staffing requirements for  
45 certified nursing assistants must exclusively perform the duties  
46 of a certified nursing assistant for the entire shift and not  
47 also be counted toward the minimum staffing requirements for  
48 licensed nurses. If the agency approved a facility's request to  
49 use a licensed nurse to perform both licensed nursing and  
50 certified nursing assistant duties, the facility must allocate  
51 the amount of staff time specifically spent on certified nursing  
52 assistant duties for the purpose of documenting compliance with  
53 minimum staffing requirements for certified and licensed nursing  
54 staff. The hours of a licensed nurse who has ~~with~~ dual job  
55 responsibilities may not be counted twice.

56           Section 2. Paragraph (o) of subsection (1) of section  
57 400.141, Florida Statutes, is amended to read:

58           400.141 Administration and management of nursing home

11-00310D-12

20121332

59 facilities.—

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

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

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

72 b. Staff turnover must be reported for the most recent 12-  
73 month period ending on the last workday of the most recent  
74 calendar quarter prior to the date the information is submitted.  
75 The turnover rate must be computed quarterly, with the annual  
76 rate being the cumulative sum of the quarterly rates. The  
77 turnover rate is the total number of terminations or separations  
78 experienced during the quarter, excluding any employee  
79 terminated during a probationary period of 3 months or less,  
80 divided by the total number of staff employed at the end of the  
81 period for which the rate is computed, and expressed as a  
82 percentage.

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

11-00310D-12

20121332

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

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

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

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

110 Section 3. For the 2011-2012 fiscal year, the sum of \$40  
111 million is appropriated in recurring funds from the General  
112 Revenue Fund to the Agency for Health Care Administration for  
113 the purpose of providing, maintaining, and improving staffing  
114 requirements for nursing home facilities as provided in this  
115 act.

116 Section 4. This act shall take effect upon becoming a law.