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LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/16/2013	.	
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The Committee on Health Policy (Joyner) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 96 and 97  
insert:

Section 2. Subsection (3) of section 400.23, Florida Statutes, is amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

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

a. A minimum certified nursing assistant staffing of 2.9



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13 hours of direct care per resident per day. A facility may not  
14 staff below one certified nursing assistant per 20 residents. A  
15 ~~minimum weekly average of certified nursing assistant and~~  
16 ~~licensed nursing staffing combined of 3.6 hours of direct care~~  
17 ~~per resident per day. As used in this sub-subparagraph, a week~~  
18 ~~is defined as Sunday through Saturday.~~

19       b. A minimum licensed nursing staffing of 1.0 hour of  
20 direct care per resident per day. A facility may not staff below  
21 one licensed nurse per 40 residents. A minimum certified nursing  
22 ~~assistant staffing of 2.5 hours of direct care per resident per~~  
23 ~~day. A facility may not staff below one certified nursing~~  
24 ~~assistant per 20 residents.~~

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

28       2. A Nursing assistant ~~assistants~~ employed under s.  
29 400.211(2) may be included in computing the staffing ratio for  
30 certified nursing assistants if their job responsibilities  
31 include only nursing-assistant-related duties.

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

36       4. The agency shall recognize the use of licensed nurses  
37 for compliance with minimum staffing requirements for certified  
38 nursing assistants if the nursing home facility otherwise meets  
39 the minimum staffing requirements for licensed nurses and the  
40 licensed nurses are performing the duties of a certified nursing  
41 assistant. Unless otherwise approved by the agency, licensed



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42 nurses counted toward the minimum staffing requirements for  
43 certified nursing assistants must exclusively perform the duties  
44 of a certified nursing assistant for the entire shift and not  
45 also be counted toward the minimum staffing requirements for  
46 licensed nurses. If the agency approved a facility's request to  
47 use a licensed nurse to perform both licensed nursing and  
48 certified nursing assistant duties, the facility must allocate  
49 the amount of staff time specifically spent on certified nursing  
50 assistant duties for the purpose of documenting compliance with  
51 minimum staffing requirements for certified and licensed nursing  
52 staff. The hours of a licensed nurse with dual job  
53 responsibilities may not be counted twice.

54 (b) Nonnursing staff providing eating assistance to  
55 residents do ~~shall~~ not count toward compliance with minimum  
56 staffing standards.

57 (c) Licensed practical nurses licensed under chapter 464  
58 who are providing nursing services in nursing home facilities  
59 under this part may supervise the activities of other licensed  
60 practical nurses, certified nursing assistants, and other  
61 unlicensed personnel providing services in such facilities in  
62 accordance with rules adopted by the Board of Nursing.

63 Section 3. For the purpose of incorporating the amendment  
64 made by this act to section 400.23, Florida Statutes, in a  
65 reference thereto, paragraphs (g) and (n) of subsection (1) of  
66 section 400.141, Florida Statutes, are reenacted, and paragraph  
67 (n) of subsection (1) of that section is amended, to read:

68 400.141 Administration and management of nursing home  
69 facilities.—

70 (1) Every licensed facility shall comply with all



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71 applicable standards and rules of the agency and shall:

72 (g) If the facility has a standard license, exceeds the  
73 minimum required hours of licensed nursing and certified nursing  
74 assistant direct care per resident per day, and is part of a  
75 continuing care facility licensed under chapter 651 or a  
76 retirement community that offers other services pursuant to part  
77 III of this chapter or part I or part III of chapter 429 on a  
78 single campus, be allowed to share programming and staff. At the  
79 time of inspection, a continuing care facility or retirement  
80 community that uses this option must demonstrate through  
81 staffing records that minimum staffing requirements for the  
82 facility were met. Licensed nurses and certified nursing  
83 assistants who work in the facility may be used to provide  
84 services elsewhere on campus if the facility exceeds the minimum  
85 number of direct care hours required per resident per day and  
86 the total number of residents receiving direct care services  
87 from a licensed nurse or a certified nursing assistant does not  
88 cause the facility to violate the staffing ratios required under  
89 s. 400.23(3)(a). Compliance with the minimum staffing ratios  
90 must be based on the total number of residents receiving direct  
91 care services, regardless of where they reside on campus. If the  
92 facility receives a conditional license, it may not share staff  
93 until the conditional license status ends. This paragraph does  
94 not restrict the agency's authority under federal or state law  
95 to require additional staff if a facility is cited for  
96 deficiencies in care which are caused by an insufficient number  
97 of certified nursing assistants or licensed nurses. The agency  
98 may adopt rules for the documentation necessary to determine  
99 compliance with this provision.



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- 100 (n) Comply with state minimum-staffing requirements:
- 101 1. A facility that has failed to comply with state minimum-
- 102 staffing requirements for 2 consecutive days is prohibited from
- 103 accepting new admissions until the facility has achieved the
- 104 minimum-staffing requirements for 6 consecutive days. For the
- 105 purposes of this subparagraph, any person who was a resident of
- 106 the facility and was absent from the facility for the purpose of
- 107 receiving medical care at a separate location or was on a leave
- 108 of absence is not considered a new admission. Failure by the
- 109 facility to impose such an admissions moratorium is subject to a
- 110 \$1,000 fine.
- 111 2. A facility that does not have a conditional license may
- 112 be cited for failure to comply with the standards in s.
- 113 400.23(3)(a)1.b. ~~and c.~~ only if it has failed to meet those
- 114 standards on 2 consecutive days or if it has failed to meet at
- 115 least 97 percent of those standards on any one day.
- 116 3. A facility that has a conditional license must be in
- 117 compliance with the standards in s. 400.23(3)(a) at all times.

118  
119 ===== T I T L E A M E N D M E N T =====

120 And the title is amended as follows:

121 Delete line 24

122 and insert:

123 damages; amending s. 400.23, F.S.; revising minimum

124 staffing requirements for nursing homes; reenacting

125 and amending s. 400.141(1)(g) and (1)(n), F.S.,

126 relating to the administration and management of

127 nursing home facilities, to incorporate the amendment

128 made to s. 400.23, F.S., in a reference thereto;



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providing an effective date.