

By Senator Bullard

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1 A bill to be entitled
 2 An act relating to nursing homes; amending s. 400.121,
 3 F.S.; requiring the Agency for Health Care
 4 Administration to prohibit a licensee or controlling
 5 interest from operating a nursing home facility in
 6 this state under certain circumstances; amending s.
 7 400.23, F.S.; requiring the agency to impose a
 8 specified civil penalty if it determines that a
 9 resident in a nursing home facility died from abuse or
 10 neglect; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsection (3) of section 400.121, Florida
 15 Statutes, is amended to read:

16 400.121 Denial, suspension, revocation of license;
 17 administrative fines; procedure; order to increase staffing.-

18 (3) The agency shall revoke or deny a nursing home license
 19 and prohibit if the licensee or controlling interest from
 20 operating ~~operates~~ a facility in this state if the licensee or
 21 controlling interest operates a facility that:

22 (a) Has had two moratoria issued pursuant to this part or
 23 part II of chapter 408 which are imposed by final order for
 24 substandard quality of care, as defined by 42 C.F.R. part 483,
 25 within any 60-month ~~30-month~~ period;

26 (b) Is conditionally licensed for 90 ~~180~~ or more continuous
 27 days;

28 (c) Is cited for two class I deficiencies arising from
 29 unrelated circumstances during the same survey or investigation;

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30 or

31 (d) Is cited for two class I deficiencies arising from
32 separate surveys or investigations within a 30-month period.

33
34 The licensee or controlling interest may present factors in
35 mitigation of revocation, and the agency may make a
36 determination not to revoke a license based upon a showing that
37 revocation is inappropriate under the circumstances.

38 Section 2. Paragraph (a) of subsection (8) of section
39 400.23, Florida Statutes, is amended to read:

40 400.23 Rules; evaluation and deficiencies; licensure
41 status.—

42 (8) The agency shall adopt rules pursuant to this part and
43 part II of chapter 408 to provide that, when the criteria
44 established under subsection (2) are not met, such deficiencies
45 shall be classified according to the nature and the scope of the
46 deficiency. The scope shall be cited as isolated, patterned, or
47 widespread. An isolated deficiency is a deficiency affecting one
48 or a very limited number of residents, or involving one or a
49 very limited number of staff, or a situation that occurred only
50 occasionally or in a very limited number of locations. A
51 patterned deficiency is a deficiency where more than a very
52 limited number of residents are affected, or more than a very
53 limited number of staff are involved, or the situation has
54 occurred in several locations, or the same resident or residents
55 have been affected by repeated occurrences of the same deficient
56 practice but the effect of the deficient practice is not found
57 to be pervasive throughout the facility. A widespread deficiency
58 is a deficiency in which the problems causing the deficiency are

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59 pervasive in the facility or represent systemic failure that has
60 affected or has the potential to affect a large portion of the
61 facility's residents. The agency shall indicate the
62 classification on the face of the notice of deficiencies as
63 follows:

64 (a) A class I deficiency is a deficiency that the agency
65 determines presents a situation in which immediate corrective
66 action is necessary because the facility's noncompliance has
67 caused, or is likely to cause, serious injury, harm, impairment,
68 or death to a resident receiving care in a facility. The
69 condition or practice constituting a class I violation shall be
70 abated or eliminated immediately, unless a fixed period of time,
71 as determined by the agency, is required for correction. A class
72 I deficiency is subject to a civil penalty of \$10,000 for an
73 isolated deficiency, \$12,500 for a patterned deficiency, and
74 \$15,000 for a widespread deficiency. If the agency determines
75 that a resident died from abuse or neglect, the agency shall
76 immediately impose a civil penalty of \$1 million for the
77 deficiency. The civil penalty ~~fine~~ amount shall be doubled for
78 each deficiency if the facility was previously cited for one or
79 more class I or class II deficiencies during the last licensure
80 inspection or any inspection or complaint investigation since
81 the last licensure inspection. A civil penalty ~~fine~~ must be
82 levied notwithstanding the correction of the deficiency.

83 (b) A class II deficiency is a deficiency that the agency
84 determines has compromised the resident's ability to maintain or
85 reach his or her highest practicable physical, mental, and
86 psychosocial well-being, as defined by an accurate and
87 comprehensive resident assessment, plan of care, and provision

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88 of services. A class II deficiency is subject to a civil penalty
89 of \$2,500 for an isolated deficiency, \$5,000 for a patterned
90 deficiency, and \$7,500 for a widespread deficiency. The civil
91 penalty ~~fine~~ amount shall be doubled for each deficiency if the
92 facility was previously cited for one or more class I or class
93 II deficiencies during the last licensure inspection or any
94 inspection or complaint investigation since the last licensure
95 inspection. A civil penalty ~~fine~~ shall be levied notwithstanding
96 the correction of the deficiency.

97 (c) A class III deficiency is a deficiency that the agency
98 determines will result in no more than minimal physical, mental,
99 or psychosocial discomfort to the resident or has the potential
100 to compromise the resident's ability to maintain or reach his or
101 her highest practical physical, mental, or psychosocial well-
102 being, as defined by an accurate and comprehensive resident
103 assessment, plan of care, and provision of services. A class III
104 deficiency is subject to a civil penalty of \$1,000 for an
105 isolated deficiency, \$2,000 for a patterned deficiency, and
106 \$3,000 for a widespread deficiency. The civil penalty ~~fine~~
107 amount shall be doubled for each deficiency if the facility was
108 previously cited for one or more class I or class II
109 deficiencies during the last licensure inspection or any
110 inspection or complaint investigation since the last licensure
111 inspection. A citation for a class III deficiency must specify
112 the time within which the deficiency is required to be
113 corrected. If a class III deficiency is corrected within the
114 time specified, a civil penalty may not be imposed.

115 (d) A class IV deficiency is a deficiency that the agency
116 determines has the potential for causing no more than a minor

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117 negative impact on the resident. If the class IV deficiency is
118 isolated, no plan of correction is required.

119 Section 3. This act shall take effect July 1, 2014.