

By Senator Simmons

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1 A bill to be entitled
2 An act relating to nursing home liability; amending s.
3 400.141, F.S.; requiring the general and professional
4 liability insurance coverage that must be maintained
5 by a licensed nursing home to meet certain criteria;
6 repealing s. 400.0238, F.S., relating to punitive
7 damages and limitations on awards; amending s.
8 400.0239, F.S.; conforming a cross-reference;
9 providing an effective date.

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

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13 Section 1. Paragraph (q) of subsection (1) of section
14 400.141, Florida Statutes, is amended to read:

15 400.141 Administration and management of nursing home
16 facilities.—

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

19 (q) Maintain general and professional liability insurance
20 coverage that is in force at all times in an amount not less
21 than \$1 million per claim. Any general and professional
22 liability insurance that provides for the payment of litigation
23 costs or attorney fees for the defense of any claim against a
24 nursing home pursuant to common law, s. 400.023, or s. 400.0233
25 as a deduction from the liability limits of the policy, or that
26 reduces the liability coverage limits available under the policy
27 for a settlement or judgment by any amount attributable to legal
28 costs or attorney fees incurred during the course of the defense
29 of the insured, does not fulfill the insurance requirement of

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30 this paragraph. In lieu of such coverage, a state-designated
31 teaching nursing home and its affiliated assisted living
32 facilities created under s. 430.80 may demonstrate proof of
33 financial responsibility as provided in s. 430.80(3)(g).

34 Section 2. Section 400.0238, Florida Statutes, is repealed.

35 Section 3. Subsection (1) of section 400.0239, Florida
36 Statutes, is amended to read:

37 400.0239 Quality of Long-Term Care Facility Improvement
38 Trust Fund.—

39 (1) There is created within the Agency for Health Care
40 Administration a Quality of Long-Term Care Facility Improvement
41 Trust Fund to support activities and programs directly related
42 to improvement of the care of nursing home and assisted living
43 facility residents. The trust fund shall be funded through
44 proceeds generated pursuant to s. 429.298 ~~ss. 400.0238 and~~
45 ~~429.298~~, through funds specifically appropriated by the
46 Legislature, through gifts, endowments, and other charitable
47 contributions allowed under federal and state law, and through
48 federal nursing home civil monetary penalties collected by the
49 Centers for Medicare and Medicaid Services and returned to the
50 state. These funds must be utilized in accordance with federal
51 requirements.

52 Section 4. This act shall take effect July 1, 2018.