

By the Committee on Health Policy; and Senator Albritton

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1 A bill to be entitled
 2 An act relating to nursing home facility staffing;
 3 amending s. 400.23, F.S.; revising direct care
 4 staffing requirements for nursing home facilities;
 5 requiring the Agency for Health Care Administration to
 6 include such requirements in rule; defining the term
 7 "direct care staff"; providing an effective date.
 8

9 Be It Enacted by the Legislature of the State of Florida:
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11 Section 1. Subsection (3) of section 400.23, Florida
 12 Statutes, is amended to read:

13 400.23 Rules; evaluation and deficiencies; licensure
 14 status.—

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

18 a. A minimum weekly average of ~~certified nursing assistant~~
 19 ~~and licensed nursing staffing combined of 3.9~~ 3.6 hours of
 20 direct care staffing per resident per day as determined by
 21 facility assessment staffing needs in accordance with 42 C.F.R.
 22 part 483, subpart B. As used in this paragraph ~~sub-subparagraph,~~
 23 a week is defined as Sunday through Saturday, and the term
 24 "direct care staff" includes those individuals who, through
 25 interpersonal contact with residents or resident care
 26 management, provide care and services that allow residents to
 27 attain or maintain their highest practicable physical, mental,
 28 and psychosocial states of well-being. The term does not include
 29 individuals whose primary duty is maintaining the physical

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30 environment of the facility. Direct care staffing hours do not
31 include time spent on the following functions: nursing
32 administration, staff development, staffing coordination, and
33 the administrative portion of the minimum data set and care plan
34 coordination.

35 b. A minimum nonnursing direct care ~~certified nursing~~
36 ~~assistant~~ staffing of 2.5 hours of direct care per resident per
37 day. A facility may not staff below one certified nursing
38 assistant per 20 residents at any time.

39 c. A minimum licensed nursing staffing of 1.0 hour of
40 direct care per resident per day. A facility may not staff below
41 one licensed nurse per 40 residents at any time.

42 ~~2. Nursing assistants employed under s. 400.211(2) may be~~
43 ~~included in computing the staffing ratio for certified nursing~~
44 ~~assistants if their job responsibilities include only nursing-~~
45 ~~assistant-related duties.~~

46 ~~2.3.~~ Each nursing home facility must document compliance
47 with staffing standards as required under this paragraph and
48 post daily the names of staff on duty for the benefit of
49 facility residents and the public.

50 ~~3.4.~~ The agency shall recognize the use of licensed nurses
51 for compliance with minimum staffing requirements for direct
52 care staff ~~certified nursing assistants~~ if the nursing home
53 facility otherwise meets the minimum staffing requirements for
54 licensed nurses and the licensed nurses are performing the
55 duties of direct care staff ~~a certified nursing assistant.~~
56 Unless otherwise approved by the agency, licensed nurses counted
57 toward the minimum staffing requirements for direct care staff
58 ~~certified nursing assistants~~ must exclusively perform the duties

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59 of direct care staff ~~a certified nursing assistant for the~~
60 ~~entire shift~~ and not also be counted toward the minimum staffing
61 requirements for licensed nurses. If the agency approved a
62 facility's request to use a licensed nurse to perform both
63 licensed nursing and direct care staff ~~certified nursing~~
64 ~~assistant~~ duties, the facility must allocate the amount of staff
65 time specifically spent on direct care staff ~~certified nursing~~
66 ~~assistant~~ duties for the purpose of documenting compliance with
67 minimum staffing requirements for certified and licensed nursing
68 staff. The hours of a licensed nurse with dual job
69 responsibilities may not be counted twice.

70 ~~(b) Nonnursing staff providing eating assistance to~~
71 ~~residents shall not count toward compliance with minimum~~
72 ~~staffing standards.~~

73 (b)(e) Licensed practical nurses licensed under chapter 464
74 who are providing nursing services in nursing home facilities
75 under this part may supervise the activities of other licensed
76 practical nurses, certified nursing assistants, and other
77 unlicensed personnel providing services in such facilities in
78 accordance with rules adopted by the Board of Nursing.

79 Section 2. This act shall take effect July 1, 2019.