



615290

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2022	.	
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The Committee on Rules (Gibson) recommended the following:

Senate Amendment to Amendment (308330)

Delete lines 70 - 230

and insert:

b. A minimum ~~certified nursing assistant staffing~~ of 2.5 hours of direct care by a certified nursing assistant per resident per day. A facility may not staff below one certified nursing assistant per 20 residents.

c. A minimum ~~licensed nursing staffing~~ of 1.0 hour of direct care by a licensed nurse per resident per day. A facility may not staff below one licensed nurse per 40 residents.



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12 2. Nursing assistants employed under s. 400.211(2) may be
13 included in computing the hours of direct care provided by
14 certified nursing assistants and may be included in computing
15 the staffing ratio for certified nursing assistants if their job
16 responsibilities include only nursing-assistant-related duties.

17 3. Each nursing home facility must document compliance with
18 staffing standards as required under this paragraph and post
19 daily the names of licensed nurses and certified nursing
20 assistants ~~staff~~ on duty for the benefit of facility residents
21 and the public. Facilities must maintain the records documenting
22 compliance with minimum staffing standards for a period of 5
23 years and must report staffing in accordance with 42 C.F.R. s.
24 483.70(q).

25 4. The agency must ~~shall~~ recognize the use of licensed
26 nurses for compliance with minimum staffing requirements for
27 certified nursing assistants if the nursing home facility
28 otherwise meets the minimum staffing requirements for licensed
29 nurses and the licensed nurses are performing the duties of a
30 certified nursing assistant. Unless otherwise approved by the
31 agency, licensed nurses counted toward the minimum staffing
32 requirements for certified nursing assistants must exclusively
33 perform the duties of a certified nursing assistant for the
34 entire shift and not also be counted toward the minimum staffing
35 requirements for licensed nurses. If the agency approved a
36 facility's request to use a licensed nurse to perform both
37 licensed nursing and certified nursing assistant duties, the
38 facility must allocate the amount of staff time specifically
39 spent on certified nursing assistant duties for the purpose of
40 documenting compliance with minimum staffing requirements for



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41 certified and licensed nursing staff. The hours of a licensed
42 nurse with dual job responsibilities may not be counted twice.

43 5. Evidence that a facility complied with the minimum
44 direct care staffing requirements under subparagraph 1. is not
45 admissible as evidence of compliance with the nursing services
46 requirements under 42 C.F.R. s. 483.35 or 42 C.F.R. s. 483.70.

47 (c) ~~(b)~~ Paid feeding assistants and direct care nonnursing
48 staff, other than certified nursing assistants and licensed
49 nurses, who have successfully completed the feeding assistant
50 training program under s. 400.141(1)(v) and who provide
51 providing eating assistance to residents shall not count toward
52 compliance with overall direct care minimum staffing hours but
53 not the hours of direct care required for certified nursing
54 assistants or licensed nurses. Time spent by certified nursing
55 assistants or licensed nurses on providing eating assistance to
56 residents shall count toward the hours of direct care required
57 for certified nursing assistants or licensed nurses standards.

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

64 (e) The agency may adopt rules to implement this
65 subsection.

66 Section 3. Present subsection (2) of section 400.0234,
67 Florida Statutes, is redesignated as subsection (3), and a new
68 subsection (2) is added to that section, to read:

69 400.0234 Availability of facility records for investigation



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70 of resident's rights violations and defenses; penalty.-

71 (2) Information submitted pursuant to s. 408.061(5) and (6)
72 is discoverable and admissible in a civil action or an
73 administrative action under this part or part II of chapter 408.

74 Section 4. Subsection (4) of section 400.024, Florida
75 Statutes, is amended, and subsection (5) is added to that
76 section, to read:

77 400.024 Failure to satisfy a judgment or settlement
78 agreement; required notification to claimants.-

79 (4) ~~If,~~ After the agency is placed on notice pursuant to
80 subsection (2), the following applies and:

81 (a) If the license is subject to renewal, the agency may
82 deny the license renewal unless compliance with this section is
83 achieved. ~~; and~~

84 (b) If a change of ownership application for the facility
85 at issue is filed ~~submitted~~ by the licensee, by a person or
86 entity identified as having a controlling interest in the
87 licensee, or by a related party, the agency shall deny the
88 change of ownership application unless compliance with this
89 section is achieved.

90 (c) If an adverse final judgment under subsection (1) is
91 entered but payment is not yet due and a change of ownership
92 application for the facility at issue is submitted by the
93 licensee, by a person or entity identified as having a
94 controlling interest in the licensee, or by a related party, the
95 adverse final judgment becomes the responsibility and liability
96 of the transferee if the agency approves the change of ownership
97 application.

98 (5) If a change of ownership application for the facility



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99 at issue is filed by the licensee, by a person or entity
100 identified as having a controlling interest in the licensee, or
101 by a related party, then:

102 (a) The licensee or transferor must provide written notice
103 of the filing of the application to each pending claimant or the
104 claimant's attorney of record, if applicable. The written notice
105 must be provided within 14 days after the date the application
106 is filed with the agency.

107 (b) The written notice must be provided by certified mail,
108 return receipt requested, or other method that provides
109 verification of receipt.

110 (c) A claimant has 30 days after the date of receipt of the
111 written notice to object to the application if the claimant has
112 reason to believe that the approval of the application would
113 facilitate a fraudulent transfer or allow the transferor to
114 avoid financial responsibility for the claimant's pending claim.

115 (d) The agency must consider any objection brought pursuant
116 to this subsection in its decision to approve or deny an
117 application for change of ownership under this part and part II
118 of chapter 408.

119 (e) If a claim is pending in arbitration at the time that
120 the application for change of ownership is filed, the claimant
121 may file a petition to enjoin the transfer in circuit court.

122 (f) As used in this subsection, the term "claimant" means a
123 resident or the resident's family or personal representative who
124 has notified the licensee or facility of a potential claim by
125 written notice of intent or who has initiated an action, claim,
126 or arbitration proceeding against the licensee or facility.

127 Section 5. Paragraphs (g), (n), and (r) of subsection (1)



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128 of section 400.141, Florida Statutes, are amended to read:

129 400.141 Administration and management of nursing home
130 facilities.—

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

133 (g) If the facility has a standard license, exceeds the
134 minimum required hours of direct care provided by licensed
135 nurses nursing and certified nursing assistants ~~assistant direct~~
136 ~~care~~ per resident per day, and is part of a continuing care
137 facility licensed under chapter 651 or is a retirement community
138 that offers other services pursuant to part III of this chapter
139 or part I or part III of chapter 429 on a single campus, be
140 allowed to share programming and staff. At the time of
141 inspection, a continuing care facility or retirement community
142 that uses this option must demonstrate through staffing records
143 that minimum staffing requirements for the facility were met.
144 Licensed nurses and certified nursing assistants who work in the
145 facility may be used to provide services elsewhere on campus if
146 the facility exceeds the minimum number of direct care hours
147 required per resident per day and the total number of residents
148 receiving direct care services from a licensed nurse or a
149 certified nursing assistant does not cause the facility to
150 violate the staffing ratios required under s. 400.23(3)(b) ~~s.~~
151 ~~400.23(3)(a)~~. Compliance with the minimum staffing ratios must
152 be based on the total number of residents receiving direct care
153 services, regardless of where they reside on campus. If the
154 facility receives a conditional license, it may not share staff
155 until the conditional license status ends. This paragraph does
156 not restrict the agency's authority under federal or state law



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157 to require additional staff if a facility is cited for
158 deficiencies in care which are caused by an insufficient number
159 of certified nursing assistants or licensed nurses. The agency
160 may adopt rules for the documentation necessary to determine
161 compliance with this provision.

162 (n) Comply with state minimum-staffing requirements:

163 1. The agency shall impose a moratorium on new admissions
164 for a facility that has failed to comply with state minimum-
165 staffing requirements for 48 ~~2~~ consecutive hours ~~days is~~
166 ~~prohibited from accepting new admissions~~ until the facility has