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LEGISLATIVE ACTION

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

**Senate Amendment**

Delete lines 119 - 313  
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 a ratio of 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 a ratio of one licensed nurse per 40



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12 residents.

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

18           3. Each nursing home facility must document compliance with  
19 staffing standards as required under this paragraph and post  
20 daily the names of licensed nurses and certified nursing  
21 assistants ~~staff~~ on duty for the benefit of facility residents  
22 and the public. Facilities must maintain the records documenting  
23 compliance with minimum staffing standards for a period of 5  
24 years and must report staffing in accordance with 42 C.F.R. s.  
25 483.70(q).

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



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41 documenting compliance with minimum staffing requirements for  
42 certified and licensed nursing staff. The hours of a licensed  
43 nurse with dual job responsibilities may not be counted twice.

44 5. The nurse staffing requirements imposed in this  
45 paragraph are minimum nurse staffing requirements for nursing  
46 home facilities. Evidence that a facility complied with the  
47 minimum direct care staffing requirements under subparagraph 1.  
48 is not admissible as evidence of compliance with the nursing  
49 services requirements under 42 C.F.R. s. 483.35 or 42 C.F.R. s.  
50 483.70.

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

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

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

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



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70 400.0234 Availability of facility records for investigation  
71 of resident's rights violations and defenses; penalty.—

72 (2) Forms filed with the agency pursuant to s. 408.061(5)  
73 and (6) are not confidential or exempt from the provisions of s.  
74 119.07(1) and s. 24(a), Art. I of the State Constitution and may  
75 be discoverable and admissible in a civil action under this part  
76 or an administrative action under this part or part II of  
77 chapter 408.

78 Section 4. Subsection (4) of section 400.024, Florida  
79 Statutes, is amended to read:

80 400.024 Failure to satisfy a judgment or settlement  
81 agreement.—

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

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

87 (b) If a change of ownership application for the facility  
88 at issue is filed ~~submitted~~ by the licensee, by a person or  
89 entity identified as having a controlling interest in the  
90 licensee, or by a related party, the unsatisfied or undischarged  
91 adverse final judgment under subsection (1) becomes the  
92 responsibility and liability of the transferee, and the agency  
93 shall deny the change of ownership application unless compliance  
94 with this section is achieved.

95 (c) If a change of ownership application for the facility  
96 at issue is filed by the licensee, by a person or entity  
97 identified as having a controlling interest in the licensee, or  
98 by a related party, then:



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99           1. The licensee or transferor must provide written notice  
100 of the filing of the application to each pending claimant or the  
101 claimant's attorney of record, if applicable, within 14 days  
102 after the date the application is filed with the agency.

103           2. The written notice must be provided by certified mail,  
104 return receipt requested, or other method that provides  
105 verification of receipt.

106           3. A claimant has 30 days after the date of receipt of the  
107 written notice to object to the application if the claimant has  
108 reason to believe that the approval of the application would  
109 facilitate a fraudulent transfer or allow the transferor to  
110 avoid financial responsibility for the claimant's pending claim.

111           4. The agency must consider any objection brought pursuant  
112 to this subsection in its decision to approve or deny an  
113 application for change of ownership under this part and part II  
114 of chapter 408.

115           5. If a claim is pending in arbitration at the time that  
116 the application for change of ownership is filed, the claimant  
117 may file a petition to enjoin the transfer in circuit court.

118           6. As used in this paragraph, "claimant" means a resident  
119 or the resident's family or personal representative who has  
120 notified the licensee or facility of a potential claim by notice  
121 of intent letter or who has initiated an action, claim, or  
122 arbitration proceeding against the licensee or facility.

123           Section 5. Paragraphs (g), (n), and (r) of subsection (1)  
124 of section 400.141, Florida Statutes, are amended to read:

125           400.141 Administration and management of nursing home  
126 facilities.—

127           (1) Every licensed facility shall comply with all



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



157 compliance with this provision.

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

159 1. The agency shall impose a moratorium on new admissions  
160 for a facility that has failed for 48 consecutive hours to  
161 comply with the minimum hours of direct care required to be  
162 provided by a licensed nurse or certified nursing assistant. The  
163 moratorium must be imposed until the facility is able to  
164 document compliance with the minimum direct care hours required  
165 per resident per day for licensed nurses and certified nursing  
166 assistants ~~state minimum-staffing requirements for 2 consecutive~~  
167 ~~days is prohibited from accepting new admissions until the~~  
168 ~~facility has achieved the minimum-staffing requirements for 6~~  
169 ~~consecutive days.~~ For the purposes of this subparagraph, any  
170 person who was a resident of the facility and was absent from  
171 the facility for the purpose of receiving medical care at a  
172 separate location or was on a leave of absence is not considered  
173 a new admission. ~~Failure by the facility to impose such an~~  
174 ~~admissions moratorium is subject to a \$1,000 fine.~~

175 2. A facility that has a standard ~~does not have a~~  
176 ~~conditional~~ license may be cited for failure to comply with the  
177 standards in s. 400.23(3)(b)1.b. and c. ~~s. 400.23(3)(a)1.b. and~~  
178 ~~e.~~ only if it has failed to meet those standards on 2  
179 consecutive days ~~or if it has failed to meet at least 97 percent~~  
180 ~~of those standards on any one day.~~

181 3. A facility that has a conditional license must be in  
182 compliance with the standards in s. 400.23(3)(b) ~~s. 400.23(3)(a)~~  
183 at all times.

184 (r) Maintain in the medical record for each resident a  
185 daily chart of direct care ~~certified nursing assistant~~ services



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186 provided to the resident. The direct care staff ~~certified~~  
187 ~~nursing assistant who is~~ caring for the resident must complete  
188 this record by the end of his or her shift. This record must  
189 indicate assistance with activities of daily living, assistance  
190 with eating, and assistance with drinking, and must record each  
191 offering of nutrition and hydration for those residents whose  
192 plan of care or assessment indicates a risk for malnutrition or  
193 dehydration.

194 Section 6. Nursing Home Sustainability Task Force.—There is  
195 created the Nursing Home Sustainability Task Force. The task  
196 force shall review, analyze, and make recommendations specific  
197 to the sustainability of the state's model of providing quality  
198 nursing home care. The task force shall consist of  
199 representatives of nursing home providers, nurses, certified  
200 nursing assistants, and aging advocates and other interested