

**STORAGE NAME:** h2431.lt

**DATE:** April 18, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
ELDER AFFAIRS & LONG TERM CARE  
ANALYSIS**

**BILL #:** HB 2431 (PCB LT 00-06)

**RELATING TO:** Nursing Homes & Related Health Care Facilities

**SPONSOR(S):** Committee on Elder Affairs & Long Term Care and Representative Argenziano

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

(1) ELDER AFFAIRS & LONG TERM CARE YEAS 7 NAYS 0

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**I. SUMMARY:**

This bill is essentially a “glitch” bill for HB 1971 (nursing home quality improvement) and SB 2214 (developmental services).

The bill clarifies language related to transfer and discharge of residents from nursing homes that proved difficult and confusing to implement. Revises the types of data that must be published in the Consumer Information materials prepared by the Agency for Health Care Administration (AHCA, or agency). Clarifies provisions related to the consumer satisfaction surveys the agency is required to obtain. The bill revises the criteria used to nominate nursing homes for the Gold Seal award. Provides the agency with specific rule making authority.

Subsection (1) of section 400.962 is amended to delete licensure requirements that are duplicated in section 393.067, F.S.

The Board of Pharmacy and AHCA are directed to study the use of automated medication dispensing machines in nursing facilities.

The bill has no fiscal impact and shall take effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 400, F.S., in its eleven parts, regulates nursing homes and related health care facilities. During the 1998-99 Legislative interim, the Committee on Elder Affairs & Long Term Care participated in a series of workshops to hear presentations from regulators, the nursing home industry, and consumer advocates and to discuss at length quality of care issues. House bill 1971, passed during the 1999 Legislative session, was the product of that work.

HB 1971 had a variety of provisions designed to provide consumers with more information about nursing homes, to make it easier for consumers and families to seek help from the Long Term Care Ombudsman, payment increases for Medicaid participating nursing facilities to encourage staff retention, and created the "Gold Seal" program to recognize excellence in nursing home care.

The Agency for Health Care Administration (AHCA) was directed to implement a quality of care monitoring program in each district. The agency was further directed to develop an early warning system to prevent the deterioration of health and safety conditions in problem facilities. A number of consumer protections were provided or enhanced related to inappropriate transfer or discharge from a facility, protection of resident property from loss or theft, and resident use of pharmaceutical benefits covered under certain pension plans.

Sections of chapter 393, F.S., related to services to persons with developmental disabilities and Part VIII of chapter 400, F.S., related to licensure of facilities serving persons with developmental disabilities were revised during the 1999 session to update licensure requirements. A drafting error duplicated licensure requirements for comprehensive transitional educational program in chapters 400 and 393, F.S.

C. EFFECT OF PROPOSED CHANGES:

*Changes to Developmental Services*

The bill corrects a 1999 drafting error by amending subsection (1) of section 400.962, F.S. related to comprehensive transitional education facilities. This correction provides that these facilities are subject to licensure requirements in only one chapter of law, 393, F.S.

*Changes to Nursing Home*

Consumer Satisfaction Surveys

Clarifies that the agency may survey family members, guardians or resident representatives of any resident, not just of residents who are mentally incapable of responding to a survey. Provides rule writing authority for the agency to implement the Consumer Satisfaction Surveys.

Transfer and Discharge

Requires the use of the AHCA transfer and discharge form only when the transfer or discharge is initiated by the nursing home. The form offers information about several opportunities to appeal the decision to be transferred or discharged against the consumer's wishes. Currently the form is required for all transfers and discharges and has caused confusion for residents who receive this form when they have made their own arrangements to leave the nursing home.

Current law requires a physician's signature when a transfer or discharge is due to medical reasons. This signature has been difficult to obtain and caused delays in the proper circulation of the form to the Ombudsman and others. The bill allows a written physician order to be attached to the form in place of a signature.

Requires nursing homes to send the transfer/discharge form to the Ombudsman within 5 days. Currently there is no time limit and in some areas the Ombudsman offices have experienced problems obtaining these forms in a timely manner.

Nursing Home Consumer Guide

Allows the agency to provide links to other web sites that provide consumer information. Clarifies the nursing home information that will be provided in the guide to include length of ownership, chain affiliation, and methods of payment accepted. Deletes a requirement that the guide include the federal Quality Indicators. This federal form is not a useful tool to help consumers and their families discern a facility's clinical outcomes, as expected.

Replaces broad regulatory information language with specific information that will be included in the guide. Requires the agency to provide the last 45 months of regulatory data instead of 3 years. This more accurately reflects the last three "survey cycles" ( survey cycles are a 15 month maximum). Provides authority to report results of the consumer satisfaction surveys and deficiency information in numeric and symbolic formats. For example, the agency may elect to use a display of one to five stars to represent the customer satisfaction survey results.

Allows the agency to use federal deficiency data regardless of how the federal system is named or identified. It is anticipated that the Health Care Financing Administration may change their "OSCAR" computer system in the future. Allows additional information to be provided in the Consumer Guide as the agency is able to accumulate and publish such information. Provides rule authority to the agency to implement the Consumer Guide.

Gold Seal

Revises criteria for nursing homes recommended for the Gold Seal Award by replacing the use of the federal Quality Indicators with a quality of care measurement system that will be determined by the Panel for Excellence in Long Term Care. The federal Quality Indicators form does not serve as an appropriate tool to provide information about clinical outcomes, as expected. Provides additional rule authority to the agency to implement the Gold Seal program.

Amends subsection (5) of 400.23 to clarify that a nursing facility may be exempted from the specialized staffing and care requirements specified by the agency in rule. The statute currently directs the agency, in collaboration with Children's Medical Services (CMS), to adopt rules for the minimum standards of care for persons who are under age 21. The bill would allow a facility to be exempted if the young person's physician agreed.

*Nursing Home Bed*

A definition of "nursing home bed" is created which should give nursing homes flexibility to use a resident room for other uses as long as it can be made ready for occupancy in 48 hours.

*Automated Medication Dispensing Machines*

The Board of Pharmacy and AHCA are directed to study the use of automated medication dispensing machines in nursing facilities. A report summarizing the results shall be submitted by the board and the agency to the Speaker of the House and the President of the Senate by January 1, 2000.

D. SECTION-BY-SECTION ANALYSIS:

*Please see "Effect of Proposed Changes"*

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No impact is projected.

2. Expenditures:

No impact is projected.

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**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

No impact is projected.

2. Expenditures:

No impact is projected.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

No impact is projected.

**D. FISCAL COMMENTS:**

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

**V. COMMENTS:**

**A. CONSTITUTIONAL ISSUES:**

None are identified.

**B. RULE-MAKING AUTHORITY:**

The agency is provided with specific rule making authority related to section 400.191, "Availability, distribution, and posting of reports and records" and section 400.235, "Nursing home quality and licensure status; Gold Seal Program."

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C. OTHER COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON ELDER AFFAIRS & LONG TERM CARE:

Prepared by:

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Melanie Meyer

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