

1 Section 1. Paragraph (a) of subsection (2) of section
2 400.118, Florida Statutes, is amended to read:

3 400.118 Quality assurance; early warning system;
4 monitoring; rapid response teams.--

5 (2)(a) The agency shall establish within each district
6 office one or more quality-of-care monitors, based on the
7 number of nursing facilities in the district, to monitor all
8 nursing facilities in the district on a regular, unannounced,
9 aperiodic basis, including nights, evenings, weekends, and
10 holidays. Quality-of-care monitors shall visit each nursing
11 facility annually, shall visit each conditionally licensed
12 nursing facility at least quarterly, and shall visit other
13 facilities as directed by the agency. Priority for additional
14 monitoring visits shall be given to nursing facilities that
15 have with a history of resident care deficiencies.

16 Quality-of-care monitors shall be registered nurses who are
17 trained and experienced in nursing facility regulation,
18 standards of practice in long-term care, and evaluation of
19 patient care. Individuals in these positions may shall not be
20 deployed by the agency as a part of the district survey team
21 in the conduct of routine, scheduled surveys, but shall
22 function solely and independently as quality-of-care monitors.
23 Quality-of-care monitors shall assess the overall quality of
24 life in the nursing facility and shall assess specific
25 conditions in the facility directly related to resident care,
26 including the operations of internal quality improvement and
27 risk management programs and adverse incident reports. The
28 quality-of-care monitor shall include in an assessment visit
29 observation of the care and services rendered to residents and
30 formal and informal interviews with residents, family members,
31 facility staff, resident guests, volunteers, other regulatory

1 staff, and representatives of a long-term care ombudsman
2 council or Florida advocacy council.

3 Section 2. Section 400.141, Florida Statutes, is
4 amended to read:

5 400.141 Administration and management of nursing home
6 facilities.--Every licensed facility shall comply with all
7 applicable standards and rules of the agency and shall:

8 (1) Be under the administrative direction and charge
9 of a licensed administrator.

10 (2) Appoint a medical director licensed pursuant to
11 chapter 458 or chapter 459. The agency may establish by rule
12 more specific criteria for the appointment of a medical
13 director.

14 (3) Have available the regular, consultative, and
15 emergency services of physicians licensed by the state.

16 (4) Provide for resident use of a community pharmacy
17 as specified in s. 400.022(1)(q). Any other law to the
18 contrary notwithstanding, a registered pharmacist licensed in
19 Florida, that is under contract with a facility licensed under
20 this chapter or chapter 429, shall repackage a nursing
21 facility resident's bulk prescription medication which has
22 been packaged by another pharmacist licensed in any state in
23 the United States into a unit dose system compatible with the
24 system used by the nursing facility, if the pharmacist is
25 requested to offer such service. In order to be eligible for
26 the repackaging, a resident or the resident's spouse must
27 receive prescription medication benefits provided through a
28 former employer as part of his or her retirement benefits, a
29 qualified pension plan as specified in s. 4972 of the Internal
30 Revenue Code, a federal retirement program as specified under
31 5 C.F.R. s. 831, or a long-term care policy as defined in s.

1 | 627.9404(1). A pharmacist who correctly repackages and
2 | relabels the medication and the nursing facility which
3 | correctly administers such repackaged medication under the
4 | provisions of this subsection shall not be held liable in any
5 | civil or administrative action arising from the repackaging.
6 | In order to be eligible for the repackaging, a nursing
7 | facility resident for whom the medication is to be repackaged
8 | shall sign an informed consent form provided by the facility
9 | which includes an explanation of the repackaging process and
10 | which notifies the resident of the immunities from liability
11 | provided herein. A pharmacist who repackages and relabels
12 | prescription medications, as authorized under this subsection,
13 | may charge a reasonable fee for costs resulting from the
14 | implementation of this provision.

15 | (5) Provide for the access of the facility residents
16 | to dental and other health-related services, recreational
17 | services, rehabilitative services, and social work services
18 | appropriate to their needs and conditions and not directly
19 | furnished by the licensee. When a geriatric outpatient nurse
20 | clinic is conducted in accordance with rules adopted by the
21 | agency, outpatients attending such clinic shall not be counted
22 | as part of the general resident population of the nursing home
23 | facility, nor shall the nursing staff of the geriatric
24 | outpatient clinic be counted as part of the nursing staff of
25 | the facility, until the outpatient clinic load exceeds 15 a
26 | day.

27 | (6) Be allowed and encouraged by the agency to provide
28 | other needed services under certain conditions. If the
29 | facility has a standard licensure status, and has had no class
30 | I or class II deficiencies during the past 2 years or has been
31 | awarded a Gold Seal under the program established in s.

1 400.235, it may be encouraged by the agency to provide
2 services, including, but not limited to, respite and adult day
3 services, which enable individuals to move in and out of the
4 facility. A facility is not subject to any additional
5 licensure requirements for providing these services. Respite
6 care may be offered to persons in need of short-term or
7 temporary nursing home services. Respite care must be provided
8 in accordance with this part and rules adopted by the agency.
9 However, the agency shall, by rule, adopt modified
10 requirements for resident assessment, resident care plans,
11 resident contracts, physician orders, and other provisions, as
12 appropriate, for short-term or temporary nursing home
13 services. The agency shall allow for shared programming and
14 staff in a facility which meets minimum standards and offers
15 services pursuant to this subsection, but, if the facility is
16 cited for deficiencies in patient care, may require additional
17 staff and programs appropriate to the needs of service
18 recipients. A person who receives respite care may not be
19 counted as a resident of the facility for purposes of the
20 facility's licensed capacity unless that person receives
21 24-hour respite care. A person receiving either respite care
22 for 24 hours or longer or adult day services must be included
23 when calculating minimum staffing for the facility. Any costs
24 and revenues generated by a nursing home facility from
25 nonresidential programs or services shall be excluded from the
26 calculations of Medicaid per diems for nursing home
27 institutional care reimbursement.

28 (7) If the facility has a standard license or is a
29 Gold Seal facility, exceeds the minimum required hours of
30 licensed nursing and certified nursing assistant direct care
31 per resident per day, and is part of a continuing care

1 facility licensed under chapter 651 or a retirement community
2 that offers other services pursuant to part III of this
3 chapter or part I or part III of chapter 429 on a single
4 campus, be allowed to share programming and staff. At the time
5 of inspection and in the semiannual report required pursuant
6 to subsection (15), a continuing care facility or retirement
7 community that uses this option must demonstrate through
8 staffing records that minimum staffing requirements for the
9 facility were met. Licensed nurses and certified nursing
10 assistants who work in the nursing home facility may be used
11 to provide services elsewhere on campus if the facility
12 exceeds the minimum number of direct care hours required per
13 resident per day and the total number of residents receiving
14 direct care services from a licensed nurse or a certified
15 nursing assistant does not cause the facility to violate the
16 staffing ratios required under s. 400.23(3)(a). Compliance
17 with the minimum staffing ratios shall be based on total
18 number of residents receiving direct care services, regardless
19 of where they reside on campus. If the facility receives a
20 conditional license, it may not share staff until the
21 conditional license status ends. This subsection does not
22 restrict the agency's authority under federal or state law to
23 require additional staff if a facility is cited for
24 deficiencies in care which are caused by an insufficient
25 number of certified nursing assistants or licensed nurses. The
26 agency may adopt rules for the documentation necessary to
27 determine compliance with this provision.

28 (8) Maintain the facility premises and equipment and
29 conduct its operations in a safe and sanitary manner.

30 (9) If the licensee furnishes food service, provide a
31 wholesome and nourishing diet sufficient to meet generally

1 | accepted standards of proper nutrition for its residents and
2 | provide such therapeutic diets as may be prescribed by
3 | attending physicians. In making rules to implement this
4 | subsection, the agency shall be guided by standards
5 | recommended by nationally recognized professional groups and
6 | associations with knowledge of dietetics.

7 | (10) Keep full records of resident admissions and
8 | discharges; medical and general health status, including
9 | medical records, personal and social history, and identity and
10 | address of next of kin or other persons who may have
11 | responsibility for the affairs of the residents; and
12 | individual resident care plans including, but not limited to,
13 | prescribed services, service frequency and duration, and
14 | service goals. The records shall be open to inspection by the
15 | agency.

16 | (11) Keep such fiscal records of its operations and
17 | conditions as may be necessary to provide information pursuant
18 | to this part.

19 | (12) Furnish copies of personnel records for employees
20 | affiliated with such facility, to any other facility licensed
21 | by this state requesting this information pursuant to this
22 | part. Such information contained in the records may include,
23 | but is not limited to, disciplinary matters and any reason for
24 | termination. Any facility releasing such records pursuant to
25 | this part shall be considered to be acting in good faith and
26 | may not be held liable for information contained in such
27 | records, absent a showing that the facility maliciously
28 | falsified such records.

29 | (13) Publicly display a poster provided by the agency
30 | containing the names, addresses, and telephone numbers for the
31 | state's abuse hotline, the State Long-Term Care Ombudsman, the

1 Agency for Health Care Administration consumer hotline, the
2 Advocacy Center for Persons with Disabilities, the Florida
3 Statewide Advocacy Council, and the Medicaid Fraud Control
4 Unit, with a clear description of the assistance to be
5 expected from each.

6 (14) Submit to the agency the information specified in
7 s. 400.071(2)(e) for a management company within 30 days after
8 the effective date of the management agreement.

9 (15) Submit semiannually to the agency, or more
10 frequently if requested by the agency, information regarding
11 facility staff-to-resident ratios, staff turnover, and staff
12 stability, including information regarding certified nursing
13 assistants, licensed nurses, the director of nursing, and the
14 facility administrator. For purposes of this reporting:

15 (a) Staff-to-resident ratios must be reported in the
16 categories specified in s. 400.23(3)(a) and applicable rules.
17 The ratio must be reported as an average for the most recent
18 calendar quarter.

19 (b) Staff turnover must be reported for the most
20 recent 12-month period ending on the last workday of the most
21 recent calendar quarter prior to the date the information is
22 submitted. The turnover rate must be computed quarterly, with
23 the annual rate being the cumulative sum of the quarterly
24 rates. The turnover rate is the total number of terminations
25 or separations experienced during the quarter, excluding any
26 employee terminated during a probationary period of 3 months
27 or less, divided by the total number of staff employed at the
28 end of the period for which the rate is computed, and
29 expressed as a percentage.

30 (c) The formula for determining staff stability is the
31 total number of employees that have been employed for more

1 | than 12 months, divided by the total number of employees
2 | employed at the end of the most recent calendar quarter, and
3 | expressed as a percentage.

4 | (d) A nursing facility that has failed to comply with
5 | state minimum-staffing requirements for 2 consecutive days is
6 | prohibited from accepting new admissions until the facility
7 | has achieved the minimum-staffing requirements for a period of
8 | 6 consecutive days. For the purposes of this paragraph, any
9 | person who was a resident of the facility and was absent from
10 | the facility for the purpose of receiving medical care at a
11 | separate location or was on a leave of absence is not
12 | considered a new admission. Failure to impose such an
13 | admissions moratorium constitutes a class II deficiency.

14 | (e) A nursing facility which does not have a
15 | conditional license may be cited for failure to comply with
16 | the standards in s. 400.23(3)(a)1.a. only if it has failed to
17 | meet those standards on 2 consecutive days or if it has failed
18 | to meet at least 97 percent of those standards on any one day.

19 | (f) A facility which has a conditional license must be
20 | in compliance with the standards in s. 400.23(3)(a) at all
21 | times.

22 |
23 | Nothing in this section shall limit the agency's ability to
24 | impose a deficiency or take other actions if a facility does
25 | not have enough staff to meet the residents' needs.

26 | (16) Report monthly the number of vacant beds in the
27 | facility which are available for resident occupancy on the day
28 | the information is reported.

29 | (17) Notify a licensed physician when a resident
30 | exhibits signs of dementia or cognitive impairment or has a
31 | change of condition in order to rule out the presence of an

1 underlying physiological condition that may be contributing to
2 such dementia or impairment. The notification must occur
3 within 30 days after the acknowledgment of such signs by
4 facility staff. If an underlying condition is determined to
5 exist, the facility shall arrange, with the appropriate health
6 care provider, the necessary care and services to treat the
7 condition.

8 (18) If the facility implements a dining and
9 hospitality attendant program, ensure that the program is
10 developed and implemented under the supervision of the
11 facility director of nursing. A licensed nurse, licensed
12 speech or occupational therapist, or a registered dietitian
13 must conduct training of dining and hospitality attendants. A
14 person employed by a facility as a dining and hospitality
15 attendant must perform tasks under the direct supervision of a
16 licensed nurse.

17 (19) Report to the agency any filing for bankruptcy
18 protection by the facility or its parent corporation,
19 divestiture or spin-off of its assets, or corporate
20 reorganization within 30 days after the completion of such
21 activity.

22 (20) Maintain general and professional liability
23 insurance coverage that is in force at all times. In lieu of
24 general and professional liability insurance coverage, a
25 state-designated teaching nursing home and its affiliated
26 assisted living facilities created under s. 430.80 may
27 demonstrate proof of financial responsibility as provided in
28 s. 430.80(3)(h).

29 (21) Maintain in the medical record for each resident
30 a daily chart of certified nursing assistant services provided
31 to the resident. The certified nursing assistant who is caring

1 | for the resident must complete this record by the end of his
2 | or her shift. This record must indicate assistance with
3 | activities of daily living, assistance with eating, and
4 | assistance with drinking, and must record each offering of
5 | nutrition and hydration for those residents whose plan of care
6 | or assessment indicates a risk for malnutrition or
7 | dehydration.

8 | (22) Before November 30 of each year, subject to the
9 | availability of an adequate supply of the necessary vaccine,
10 | provide for immunizations against influenza viruses to all its
11 | consenting residents in accordance with the recommendations of
12 | the United States Centers for Disease Control and Prevention,
13 | subject to exemptions for medical contraindications and
14 | religious or personal beliefs. Subject to these exemptions,
15 | any consenting person who becomes a resident of the facility
16 | after November 30 but before March 31 of the following year
17 | must be immunized within 5 working days after becoming a
18 | resident. Immunization shall not be provided to any resident
19 | who provides documentation that he or she has been immunized
20 | as required by this subsection. This subsection does not
21 | prohibit a resident from receiving the immunization from his
22 | or her personal physician if he or she so chooses. A resident
23 | who chooses to receive the immunization from his or her
24 | personal physician shall provide proof of immunization to the
25 | facility. The agency may adopt and enforce any rules necessary
26 | to comply with or implement this subsection.

27 | (23) Assess all residents for eligibility for
28 | pneumococcal polysaccharide vaccination (PPV) and vaccinate
29 | residents when indicated within 60 days after the effective
30 | date of this act in accordance with the recommendations of the
31 | United States Centers for Disease Control and Prevention,

1 subject to exemptions for medical contraindications and
2 religious or personal beliefs. Residents admitted after the
3 effective date of this act shall be assessed within 5 working
4 days of admission and, when indicated, vaccinated within 60
5 days in accordance with the recommendations of the United
6 States Centers for Disease Control and Prevention, subject to
7 exemptions for medical contraindications and religious or
8 personal beliefs. Immunization shall not be provided to any
9 resident who provides documentation that he or she has been
10 immunized as required by this subsection. This subsection does
11 not prohibit a resident from receiving the immunization from
12 his or her personal physician if he or she so chooses. A
13 resident who chooses to receive the immunization from his or
14 her personal physician shall provide proof of immunization to
15 the facility. The agency may adopt and enforce any rules
16 necessary to comply with or implement this subsection.

17 (24) Annually encourage and promote to its employees
18 the benefits associated with immunizations against influenza
19 viruses in accordance with the recommendations of the United
20 States Centers for Disease Control and Prevention. The agency
21 may adopt and enforce any rules necessary to comply with or
22 implement this subsection.

23
24 Facilities having a standard license ~~that have been awarded a~~
25 ~~Gold Seal under the program established in s. 400.235~~ may
26 develop a plan to provide certified nursing assistant training
27 as prescribed by federal regulations and state rules and may
28 apply to the agency for approval of their program.

29 Section 3. Subsections (5) through (15) of section
30 400.147, Florida Statutes, are amended to read:

31

1 400.147 Internal risk management and quality assurance
2 program.--

3 (5) For purposes of reporting to the agency under this
4 section, the term "adverse incident" means:

5 (a) An event over which facility personnel could
6 exercise control and which is associated in whole or in part
7 with the facility's intervention, rather than the condition
8 for which such intervention occurred, and which results in one
9 of the following:

- 10 1. Death;
- 11 2. Brain or spinal damage;
- 12 3. Permanent disfigurement;
- 13 4. Fracture or dislocation of bones or joints;
- 14 5. A limitation of neurological, physical, or sensory
15 function;
- 16 6. Any condition that required medical attention to
17 which the resident has not given his or her informed consent,
18 including failure to honor advanced directives; or
- 19 7. Any condition that required the transfer of the
20 resident, within or outside the facility, to a unit providing
21 a more acute level of care due to the adverse incident, rather
22 than the resident's condition prior to the adverse incident;

23 (b) Abuse, neglect, or exploitation as defined in s.
24 415.102;

25 (c) Abuse, neglect and harm as defined in s. 39.01;

26 (d) Resident elopement; or

27 (e) An event that is reported to a law enforcement
28 agency for investigation.

29 (6) The internal risk manager of each licensed
30 facility shall:

31

1 (a) Investigate every allegation of sexual misconduct
2 which is made against a member of the facility's personnel who
3 has direct patient contact when the allegation is that the
4 sexual misconduct occurred at the facility or at the grounds
5 of the facility;

6 (b) Report every allegation of sexual misconduct to
7 the administrator of the licensed facility; and

8 (c) Notify the resident representative or guardian of
9 the victim that an allegation of sexual misconduct has been
10 made and that an investigation is being conducted.

11 (7)(a) The facility shall initiate an investigation
12 ~~and shall notify the agency~~ within 1 business day after the
13 risk manager or his or her designee has received a report
14 pursuant to paragraph (1)(d). ~~The notification must be made in~~
15 ~~writing and be provided electronically, by facsimile device or~~
16 ~~overnight mail delivery. The notification must include~~
17 ~~information regarding the identity of the affected resident,~~
18 ~~the type of adverse incident, the initiation of an~~
19 ~~investigation by the facility, and whether the events causing~~
20 ~~or resulting in the adverse incident represent a potential~~
21 ~~risk to any other resident. The notification is confidential~~
22 ~~as provided by law and is not discoverable or admissible in~~
23 ~~any civil or administrative action, except in disciplinary~~
24 ~~proceedings by the agency or the appropriate regulatory board.~~
25 ~~The agency may investigate, as it deems appropriate, any such~~
26 ~~incident and prescribe measures that must or may be taken in~~
27 ~~response to the incident. The agency shall review each~~
28 ~~incident and determine whether it potentially involved conduct~~
29 ~~by the health care professional who is subject to disciplinary~~
30 ~~action, in which case the provisions of s. 456.073 shall~~
31 ~~apply.~~

1 ~~(b)(8)(a)~~ Each facility shall complete the
2 investigation and submit an adverse incident report to the
3 agency for each adverse incident within 15 calendar days after
4 its occurrence. If, after a complete investigation, the risk
5 manager determines that the incident was ~~not~~ an adverse
6 incident as defined in subsection (5), the facility shall
7 include this information in the report. The agency shall
8 develop a form for reporting this information.

9 ~~(c)(b)~~ The information reported to the agency pursuant
10 to paragraph~~(b)(a)~~ which relates to persons licensed under
11 chapter 458, chapter 459, chapter 461, or chapter 466 shall be
12 reviewed by the agency. The agency shall determine whether any
13 of the incidents potentially involved conduct by a health care
14 professional who is subject to disciplinary action, in which
15 case the provisions of s. 456.073 shall apply.

16 ~~(d)(e)~~ The report submitted to the agency must also
17 contain the name of the risk manager of the facility.

18 ~~(e)(d)~~ The adverse incident report is confidential as
19 provided by law and is not discoverable or admissible in any
20 civil or administrative action, except in disciplinary
21 proceedings by the agency or the appropriate regulatory board.

22 ~~(8)(9)~~ By the 10th of each month, each facility
23 subject to this section shall report any notice received
24 pursuant to s. 400.0233(2) and each initial complaint that was
25 filed with the clerk of the court and served on the facility
26 during the previous month by a resident or a resident's family
27 member, guardian, conservator, or personal legal
28 representative. The report must include the name of the
29 resident, the resident's date of birth and social security
30 number, the Medicaid identification number for
31 Medicaid-eligible persons, the date or dates of the incident

1 leading to the claim or dates of residency, if applicable, and
2 the type of injury or violation of rights alleged to have
3 occurred. Each facility shall also submit a copy of the
4 notices received pursuant to s. 400.0233(2) and complaints
5 filed with the clerk of the court. This report is confidential
6 as provided by law and is not discoverable or admissible in
7 any civil or administrative action, except in such actions
8 brought by the agency to enforce the provisions of this part.

9 (9)~~(10)~~ The agency shall review, as part of its
10 licensure inspection process, the internal risk management and
11 quality assurance program at each facility regulated by this
12 section to determine whether the program meets standards
13 established in statutory laws and rules, is being conducted in
14 a manner designed to reduce adverse incidents, and is
15 appropriately reporting incidents as required by this section.

16 (10)~~(11)~~ There is no monetary liability on the part
17 of, and a cause of action for damages may not arise against,
18 any risk manager for the implementation and oversight of the
19 internal risk management and quality assurance program in a
20 facility licensed under this part as required by this section,
21 or for any act or proceeding undertaken or performed within
22 the scope of the functions of such internal risk management
23 and quality assurance program if the risk manager acts without
24 intentional fraud.

25 (11)~~(12)~~ If the agency, through its receipt of the
26 adverse incident reports prescribed in subsection (7), or
27 through any investigation, has a reasonable belief that
28 conduct by a staff member or employee of a facility is grounds
29 for disciplinary action by the appropriate regulatory board,
30 the agency shall report this fact to the regulatory board.

31

1 ~~(12)~~~~(13)~~ The agency may adopt rules to administer this
2 section.

3 ~~(13)~~~~(14)~~ The agency shall annually submit to the
4 Legislature a report on nursing home adverse incidents. The
5 report must include the following information arranged by
6 county:

7 (a) The total number of adverse incidents.

8 (b) A listing, by category, of the types of adverse
9 incidents, the number of incidents occurring within each
10 category, and the type of staff involved.

11 (c) A listing, by category, of the types of injury
12 caused and the number of injuries occurring within each
13 category.

14 (d) Types of liability claims filed based on an
15 adverse incident or reportable injury.

16 (e) Disciplinary action taken against staff,
17 categorized by type of staff involved.

18 ~~(14)~~~~(15)~~ Information gathered by a credentialing
19 organization under a quality assurance program is not
20 discoverable from the credentialing organization. This
21 subsection does not limit discovery of, access to, or use of
22 facility records, including those records from which the
23 credentialing organization gathered its information.

24 Section 4. Subsection (3) of section 400.19, Florida
25 Statutes, is amended to read:

26 400.19 Right of entry and inspection.--

27 (3) The agency shall every 15 months conduct at least
28 one unannounced inspection to determine compliance by the
29 licensee with statutes, and with rules adopted ~~promulgated~~
30 under the provisions of those statutes, governing minimum
31 standards of construction, quality and adequacy of care, and

1 | rights of residents. The survey shall be conducted every 6
2 | months for the next 2-year period if the facility has been
3 | cited for a class I deficiency, has been cited for two or more
4 | class II deficiencies arising from separate surveys or
5 | investigations within a 60-day period, or has had three or
6 | more substantiated complaints within a 6-month period, each
7 | resulting in at least one class I or class II deficiency. In
8 | addition to any other fees or fines in this part, the agency
9 | shall assess a fine for each facility that is subject to the
10 | 6-month survey cycle. The fine for the 2-year period shall be
11 | \$6,000, one-half to be paid at the completion of each survey.
12 | The agency may adjust this fine by the change in the Consumer
13 | Price Index, based on the 12 months immediately preceding the
14 | increase, to cover the cost of the additional surveys. If such
15 | deficiencies are overturned as the result of administrative
16 | action but additional surveys have already been conducted
17 | pursuant to this section, the most recent survey shall be
18 | considered an annual survey for purposes of scheduling future
19 | surveys. The agency shall verify through subsequent
20 | inspection that any deficiency identified during the annual
21 | inspection is corrected. However, the agency may verify the
22 | correction of a class III or class IV deficiency unrelated to
23 | resident rights or resident care without reinspecting the
24 | facility if adequate written documentation has been received
25 | from the facility, which provides assurance that the
26 | deficiency has been corrected. The giving or causing to be
27 | given of advance notice of such unannounced inspections by an
28 | employee of the agency to any unauthorized person shall
29 | constitute cause for suspension of not fewer than 5 working
30 | days according to the provisions of chapter 110.

31 |

1 Section 5. Paragraph (d) of subsection (1) of section
2 400.195, Florida Statutes, is amended to read:

3 400.195 Agency reporting requirements.--

4 (1) For the period beginning June 30, 2001, and ending
5 June 30, 2005, the Agency for Health Care Administration shall
6 provide a report to the Governor, the President of the Senate,
7 and the Speaker of the House of Representatives with respect
8 to nursing homes. The first report shall be submitted no
9 later than December 30, 2002, and subsequent reports shall be
10 submitted every 6 months thereafter. The report shall
11 identify facilities based on their ownership characteristics,
12 size, business structure, for-profit or not-for-profit status,
13 and any other characteristics the agency determines useful in
14 analyzing the varied segments of the nursing home industry and
15 shall report:

16 (d) Information regarding deficiencies cited,
17 including information used to develop the Nursing Home Guide
18 WATCH LIST pursuant to s. 400.191, and applicable rules, a
19 summary of data generated on nursing homes by Centers for
20 Medicare and Medicaid Services Nursing Home Quality
21 Information Project, and information collected pursuant to s.
22 400.147(8) ~~s. 400.147(9)~~, relating to litigation.

23 Section 6. Subsections (3), (7), and (8) of section
24 400.23, Florida Statutes, are amended to read:

25 400.23 Rules; evaluation and deficiencies; licensure
26 status.--

27 (3)(a)1. The agency shall adopt rules providing
28 minimum staffing requirements for nursing homes. These
29 requirements shall include, for each nursing home facility:

30 a. A minimum certified nursing assistant staffing of
31 2.6 hours of direct care per resident per day beginning

1 January 1, 2003, and increasing to 2.7 hours of direct care
2 per resident per day beginning January 1, 2007. Beginning
3 January 1, 2002, ~~a no~~ facility may not shall staff below one
4 certified nursing assistant per 20 residents, and must provide
5 a minimum licensed nursing staffing of 1.0 hour of direct care
6 per resident per day but never below one licensed nurse per 40
7 residents.

8 b. Beginning January 1, 2007, a minimum weekly average
9 certified nursing assistant staffing of 2.9 hours of direct
10 care per resident per day. For the purpose of this
11 sub-subparagraph, a week is defined as Sunday through
12 Saturday.

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

17 3. Each nursing home must document compliance with
18 staffing standards as required under this paragraph and post
19 daily the names of staff on duty for the benefit of facility
20 residents and the public. Compliance with federal posting
21 requirements satisfies the posting requirements in this
22 subparagraph.

23 4. The agency shall recognize the use of licensed
24 nurses for compliance with minimum staffing requirements for
25 certified nursing assistants, provided that the facility
26 otherwise meets the minimum staffing requirements for licensed
27 nurses and that the licensed nurses are performing the duties
28 of a certified nursing assistant. Unless otherwise approved by
29 the agency, licensed nurses counted toward the minimum
30 staffing requirements for certified nursing assistants must
31 exclusively perform the duties of a certified nursing

1 assistant for the entire shift and not also be counted toward
2 the minimum staffing requirements for licensed nurses. If the
3 agency approved a facility's request to use a licensed nurse
4 to perform both licensed nursing and certified nursing
5 assistant duties, the facility must allocate the amount of
6 staff time specifically spent on certified nursing assistant
7 duties for the purpose of documenting compliance with minimum
8 staffing requirements for certified and licensed nursing
9 staff. In no event may the hours of a licensed nurse with dual
10 job responsibilities be counted twice.

11 (b) The agency shall adopt rules to allow properly
12 trained staff of a nursing facility, in addition to certified
13 nursing assistants and licensed nurses, to assist residents
14 with eating. The rules shall specify the minimum training
15 requirements and shall specify the physiological conditions or
16 disorders of residents which would necessitate that the eating
17 assistance be provided by nursing personnel of the facility.
18 Nonnursing staff providing eating assistance to residents
19 under the provisions of this subsection shall not count toward
20 compliance with minimum staffing standards.

21 (c) Licensed practical nurses licensed under chapter
22 464 who are providing nursing services in nursing home
23 facilities under this part may supervise the activities of
24 other licensed practical nurses, certified nursing assistants,
25 and other unlicensed personnel providing services in such
26 facilities in accordance with rules adopted by the Board of
27 Nursing.

28 (7) The agency shall, at least every 15 months,
29 evaluate all nursing home facilities and make a determination
30 as to the degree of compliance by each licensee with the
31 established rules adopted under this part as a basis for

1 assigning a licensure status to that facility. The agency
2 shall base its evaluation on the most recent inspection
3 report, taking into consideration findings from other official
4 reports, surveys, interviews, investigations, and inspections.
5 The agency shall assign a licensure status of standard or
6 conditional to each nursing home.

7 (a) A standard licensure status means that a facility
8 has no class I or class II deficiencies and has corrected all
9 class III deficiencies within the time established by the
10 agency.

11 (b) A conditional licensure status means that a
12 facility, due to the presence of one or more class I or class
13 II deficiencies, or class III deficiencies not corrected
14 within the time established by the agency, is not in
15 substantial compliance at the time of the survey with criteria
16 established under this part or with rules adopted by the
17 agency. If the facility does not have ~~has no~~ class I, class
18 II, or uncorrected class III deficiencies at the time of the
19 followup survey, a standard licensure status shall ~~may~~ be
20 assigned.

21 (c) In evaluating the overall quality of care and
22 services and determining whether the facility will receive a
23 conditional or standard license, the agency shall consider the
24 needs and limitations of residents in the facility and the
25 results of interviews and surveys of a representative sampling
26 of residents, families of residents, ombudsman council members
27 in the planning and service area in which the facility is
28 located, guardians of residents, and staff of the nursing home
29 facility.

30 (d) The current licensure status of each facility must
31 be indicated in bold print on the face of the license. A list

1 of the deficiencies of the facility shall be posted in a
2 prominent place that is in clear and unobstructed public view
3 at or near the place where residents are being admitted to
4 that facility. Licensees receiving a conditional licensure
5 status for a facility shall prepare, within 10 working days
6 after receiving notice of deficiencies, a plan for correction
7 of all deficiencies and shall submit the plan to the agency
8 for approval.

9 (e) Each licensee shall post the ~~its~~ license resulting
10 from final agency action in a prominent place that is in clear
11 and unobstructed public view at or near the place where
12 residents are being admitted to the facility.

13 (f) The agency shall adopt rules that:

14 1. Establish uniform procedures for the evaluation of
15 facilities.

16 2. Provide criteria in the areas referenced in
17 paragraph (c).

18 3. Address other areas necessary for carrying out the
19 intent of this section.

20 (8) The agency shall adopt rules to provide that, when
21 the criteria established under subsection (2) are not met,
22 such deficiencies shall be classified according to the nature
23 and the scope of the deficiency. The scope shall be cited as
24 isolated, patterned, or widespread. An isolated deficiency is
25 a deficiency affecting one or a very limited number of
26 residents, or involving one or a very limited number of staff,
27 or a situation that occurred only occasionally or in a very
28 limited number of locations. A patterned deficiency is a
29 deficiency where more than a very limited number of residents
30 are affected, or more than a very limited number of staff are
31 involved, or the situation has occurred in several locations,

1 | or the same resident or residents have been affected by
2 | repeated occurrences of the same deficient practice but the
3 | effect of the deficient practice is not found to be pervasive
4 | throughout the facility. A widespread deficiency is a
5 | deficiency in which the problems causing the deficiency are
6 | pervasive in the facility or represent systemic failure that
7 | has affected or has the potential to affect a large portion of
8 | the facility's residents. The agency shall indicate the
9 | classification on the face of the notice of deficiencies as
10 | follows:

11 | (a) A class I deficiency is a deficiency that the
12 | agency determines presents a situation in which immediate
13 | corrective action is necessary because the facility's
14 | noncompliance creates immediate jeopardy to a resident's
15 | health or safety. "Immediate jeopardy" exists when the
16 | licensee's noncompliance has caused, or is likely to cause,
17 | serious injury, harm, impairment, or death to a resident
18 | receiving care in a facility. The condition or practice
19 | constituting a class I violation shall be abated or eliminated
20 | immediately, unless a fixed period of time, as determined by
21 | the agency, is required for correction. A class I deficiency
22 | is subject to a civil penalty of \$10,000 for an isolated
23 | deficiency, \$12,500 for a patterned deficiency, and \$15,000
24 | for a widespread deficiency. The fine amount shall be doubled
25 | for each deficiency if the facility was previously cited for
26 | one or more class I or class II deficiencies during the last
27 | annual inspection or any inspection or complaint investigation
28 | since the last annual inspection. A fine must be levied
29 | notwithstanding the correction of the deficiency.

30 | (b) A class II deficiency is a deficiency that the
31 | agency determines has caused actual harm to a resident but

1 ~~does not constitute immediate jeopardy~~ ~~compromised the~~
2 ~~resident's ability to maintain or reach his or her highest~~
3 ~~practicable physical, mental, and psychosocial well being, as~~
4 ~~defined by an accurate and comprehensive resident assessment,~~
5 ~~plan of care, and provision of services.~~ A class II deficiency
6 is subject to a civil penalty of \$2,500 for an isolated
7 deficiency, \$5,000 for a patterned deficiency, and \$7,500 for
8 a widespread deficiency. The fine amount shall be doubled for
9 each deficiency if the facility was previously cited for one
10 or more class I or class II deficiencies during the last
11 annual inspection or any inspection or complaint investigation
12 since the last annual inspection. A fine shall be levied
13 notwithstanding the correction of the deficiency.

14 (c) A class III deficiency is a deficiency that the
15 agency determines has not caused actual harm to a resident,
16 presents the potential for more than minimal harm, but does
17 not constitute immediate jeopardy ~~will result in no more than~~
18 ~~minimal physical, mental, or psychosocial discomfort to the~~
19 ~~resident or has the potential to compromise the resident's~~
20 ~~ability to maintain or reach his or her highest practical~~
21 ~~physical, mental, or psychosocial well being, as defined by an~~
22 ~~accurate and comprehensive resident assessment, plan of care,~~
23 ~~and provision of services.~~ A class III deficiency is subject
24 to a civil penalty of \$1,000 for an isolated deficiency,
25 \$2,000 for a patterned deficiency, and \$3,000 for a widespread
26 deficiency. The fine amount shall be doubled for each
27 deficiency if the facility was previously cited for one or
28 more class I or class II deficiencies during the last annual
29 inspection or any inspection or complaint investigation since
30 the last annual inspection. A citation for a class III
31 deficiency must specify the time within which the deficiency

1 is required to be corrected. If a class III deficiency is
2 corrected within the time specified, no civil penalty shall be
3 imposed.

4 (d) A class IV deficiency is a deficiency that the
5 agency determines has the potential for causing no more than
6 minimal harm to a ~~minor negative impact on~~ the resident. If
7 the class IV deficiency is isolated, no plan of correction is
8 required.

9 Section 7. This act shall take effect July 1, 2007.

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SENATE SUMMARY

Revises the frequency of visits to nursing facilities by quality-of-care monitors. Authorizes certain licensed nursing facilities to develop a plan to provide training for nursing assistants. Deletes the requirement that a nursing facility notify the Agency for Health Care Administration of an adverse incident. Provides that a risk manager determine whether an incident was an adverse incident. Provides that compliance with federal posting requirements for staffing standards satisfies state posting requirements. Requires the assignment of a license to a nursing facility that does not have certain deficiencies. Requires a licensed nursing facility to post its license that is the result of final agency action. Revises the classifications for deficiencies.