

1                                   A bill to be entitled  
 2           An act relating to nursing home facility staffing  
 3           requirements; amending s. 400.141, F.S.; conforming  
 4           provisions to changes made by the act; amending s.  
 5           400.23, F.S.; revising the minimum staffing  
 6           requirements for certain nursing home facilities;  
 7           providing a definition; providing an effective date.

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 9   Be It Enacted by the Legislature of the State of Florida:

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 11           Section 1. Paragraphs (g) and (r) of subsection (1) and  
 12           subsection (2) of section 400.141, Florida Statutes, are amended  
 13           to read:

14           400.141 Administration and management of nursing home  
 15           facilities.—

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

18           (g) If the facility has a standard license, exceeds the  
 19           minimum required hours of licensed nursing and ~~certified nursing~~  
 20           ~~assistant~~ direct care staff per resident per day, and is part of  
 21           a continuing care facility licensed under chapter 651 or a  
 22           retirement community that offers other services pursuant to part  
 23           III of this chapter or part I or part III of chapter 429 on a  
 24           single campus, be allowed to share programming and staff. At the  
 25           time of inspection, a continuing care facility or retirement

26 | community that uses this option must demonstrate through  
27 | staffing records that minimum staffing requirements for the  
28 | facility were met. Licensed nurses and direct care staff  
29 | ~~certified nursing assistants~~ who work in the facility may be  
30 | used to provide services elsewhere on campus if the facility  
31 | exceeds the minimum number of direct care hours required per  
32 | resident per day and the total number of residents receiving  
33 | direct care services from a licensed nurse or direct care staff  
34 | ~~a certified nursing assistant~~ does not cause the facility to  
35 | violate the staffing ratios required under s. 400.23(3)(a).  
36 | Compliance with the minimum staffing ratios must be based on the  
37 | total number of residents receiving direct care services,  
38 | regardless of where they reside on campus. If the facility  
39 | receives a conditional license, it may not share staff until the  
40 | conditional license status ends. This paragraph does not  
41 | restrict the agency's authority under federal or state law to  
42 | require additional staff if a facility is cited for deficiencies  
43 | in care which are caused by an insufficient number of direct  
44 | care staff ~~certified nursing assistants~~ or licensed nurses. The  
45 | agency may adopt rules for the documentation necessary to  
46 | determine compliance with this provision.

47 | (r) Maintain in the medical record for each resident a  
48 | daily chart of direct care staff ~~certified nursing assistant~~  
49 | services provided to the resident. The direct care staff person  
50 | ~~certified nursing assistant~~ who is caring for the resident must

51 complete this record by the end of his or her shift. This record  
 52 must indicate assistance with activities of daily living,  
 53 assistance with eating, and assistance with drinking, and must  
 54 record each offering of nutrition and hydration for those  
 55 residents whose plan of care or assessment indicates a risk for  
 56 malnutrition or dehydration.

57 (2) Facilities that have been awarded a Gold Seal under  
 58 the program established in s. 400.235 may develop a plan to  
 59 provide direct care staff ~~certified nursing assistant~~ training  
 60 as prescribed by federal regulations and state rules and may  
 61 apply to the agency for approval of their program.

62 Section 2. Subsection (3) of section 400.23, Florida  
 63 Statutes, is amended to read:

64 400.23 Rules; evaluation and deficiencies; licensure  
 65 status.—

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

69 a. A minimum weekly average ~~of certified nursing assistant~~  
 70 ~~and licensed nursing staffing combined~~ of 9 3.6 hours of direct  
 71 care staff per resident per day as determined by the facility  
 72 assessment of staffing needs in accordance with the federal  
 73 requirements of participation for nursing home facilities. As  
 74 used in this sub-subparagraph, a week is defined as Sunday  
 75 through Saturday. For purposes of this paragraph, the term

76 "direct care staff" includes individuals who, through  
77 interpersonal contact with residents or resident care  
78 management, provide care and services to allow residents to  
79 attain or maintain the highest practicable physical, mental, and  
80 psychosocial well-being. Direct care staff does not include  
81 individuals whose primary duty is maintaining the physical  
82 environment of the nursing home facility, and excludes any staff  
83 time spent performing nursing administration, staff development,  
84 staff coordination, and the administrative portion of the  
85 minimum data set and care plan coordinators.

86 b. A minimum ~~certified nursing assistant~~ staffing of 2.5  
87 hours of direct care staff providing nonnursing services per  
88 resident per day. A facility may not staff below one direct care  
89 staff person ~~certified nursing assistant~~ per 20 residents at any  
90 time.

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

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

98 ~~2.3.~~ Each nursing home facility must document compliance  
99 with staffing standards as required under this paragraph and  
100 post daily the names of staff on duty for the benefit of

101 facility residents and the public.

102 ~~3.4.~~ The agency shall recognize the use of licensed nurses  
103 for compliance with minimum staffing requirements for direct  
104 care staff ~~certified nursing assistants~~ if the nursing home  
105 facility otherwise meets the minimum staffing requirements for  
106 licensed nurses and the licensed nurses are performing the  
107 duties of direct care staff ~~a certified nursing assistant~~.  
108 Unless otherwise approved by the agency, licensed nurses counted  
109 toward the minimum staffing requirements for direct care staff  
110 ~~certified nursing assistants~~ must exclusively perform the duties  
111 of direct care staff ~~a certified nursing assistant~~ for the  
112 ~~entire shift~~ and not also be counted toward the minimum staffing  
113 requirements for licensed nurses. If the agency approved a  
114 facility's request to use a licensed nurse to perform both  
115 licensed nursing and direct care staff ~~certified nursing~~  
116 ~~assistant~~ duties, the facility must allocate the amount of staff  
117 time specifically spent on direct care staff ~~certified nursing~~  
118 ~~assistant~~ duties for the purpose of documenting compliance with  
119 minimum staffing requirements for direct care ~~certified~~ and  
120 licensed nursing staff. The hours of a licensed nurse with dual  
121 job responsibilities may not be counted twice.

122 ~~(b) Nonnursing staff providing eating assistance to~~  
123 ~~residents shall not count toward compliance with minimum~~  
124 ~~staffing standards.~~

125 ~~(b)(e)~~ Licensed practical nurses licensed under chapter

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126 | 464 who are providing nursing services in nursing home  
127 | facilities under this part may supervise the activities of other  
128 | licensed practical nurses, direct care staff ~~certified nursing~~  
129 | ~~assistants~~, and other unlicensed personnel providing services in  
130 | such facilities in accordance with rules adopted by the Board of  
131 | Nursing.

132 |       Section 3. This act shall take effect July 1, 2019.