

COMMITTEE STATEMENT:

ASSEMBLY: No

SENATE: Yes Health, Human Services &
Senior Citizens
Budget & Appror.

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:

Yes 12/2/2021
12/20/2021

LEGISLATIVE FISCAL ESTIMATE:

Yes 1/28/2021
1/10/2020

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GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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No

RWH/JA

§§1-4
C.26:2H-46.1 to
26:2H-46.4
§5
Note to
C.26:2H-46.1 to
26:2H-46.4

P.L. 2021, CHAPTER 457, *approved January 18, 2022*
Assembly, No. 4478 (*Fourth Reprint*)

1 AN ACT concerning ¹**[long-term care facilities]** nursing homes¹ and
2 supplementing Title 26 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 ³1. ¹**[No later than 60 days after the effective date of this act,**
8 **the]** a. The¹ Department of Health shall develop a system of
9 scaling actions and penalties for repeat violations of State and
10 federal requirements for ¹**[long-term care facility]** nursing home¹
11 administration and operations, which actions and penalties shall
12 include:

13 ¹**[a. Conducting a licensure survey of a long-term care facility]**
14 (1) Developing a special focus survey program for nursing homes¹
15 with ¹**[three or more]** a history, over the past three inspection
16 cycles, of chronic, repeat¹ violations ¹**[in a single year at least once**
17 **every two years for the next four years, or at more frequent**
18 **intervals for a period longer than four years, if circumstances**
19 **warrant greater or more frequent oversight]** of State or federal
20 requirements for nursing home administration and operations or a
21 history of noncompliance with corrective plans or other disciplinary
22 actions instituted by the department, which program shall include
23 the use of additional, focused surveys to determine whether the
24 nursing home is taking appropriate steps to remediate the conditions
25 that contributed to the violations that resulted in the nursing home
26 being included in the program and violations occurring while the
27 nursing home is in the program. The program shall incorporate
28 more-stringent penalties, sanctions, and corrective measures,
29 including suspension or revocation of the nursing home's license or
30 issuing a recommendation that the nursing home's contract with the
31 federal Centers for Medicare and Medicaid Services be terminated,
32 for issues that are of longer duration or where the nursing home
33 fails to demonstrate improvement following the imposition of less-

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted October 26, 2020.

²Senate SBA committee amendments adopted January 21, 2021.

³Senate floor amendments adopted December 2, 2021.

⁴Senate floor amendments adopted December 20, 2021.

1 stringent penalties, sanctions, or corrective measures. A nursing
2 home included in the program shall remain in the program for a
3 period of at least 18 months. Any nursing home that qualifies for
4 inclusion in the federal Centers for Medicare and Medicaid
5 Services' Special Focus Facility Program that is not placed in that
6 program shall be automatically included in the special focus survey
7 program established pursuant to this subsection¹ ; and

8 ¹**[(b.) (2)]** Assessing enhanced sanctions and other penalties for
9 continued or repeat noncompliance with department regulations,
10 particularly when the ¹**[(facility)] nursing home**¹ is cited ¹**[(multiple]**
11 two or more¹ times for the same violation ¹within a six-month
12 period¹ or when violations involve noncompliance with infection
13 control requirements, which enhanced sanctions and penalties shall
14 include:

15 ¹**[(1)] (a)]** a series of escalating fines for repeated violations or
16 multiple violations by the same ¹**[(facility)] nursing home**¹ , as well
17 as increased fines when a violation results in severe adverse health
18 consequences for a resident or staff member of the ¹**[(facility)]**
19 nursing home¹ ; and

20 ¹**[(2)] (b)]** a series of escalating licensure actions for repeated
21 violations or multiple violations by the same ¹**[(facility)] nursing**
22 home¹ , particularly in cases where a violation results in severe
23 adverse health consequences for a resident or staff member at the
24 ¹**[(facility)] nursing home**¹ , which licensure actions shall include:
25 suspending, terminating, or revoking the ¹**[(facility's)] nursing**
26 home's¹ license; ¹issuing a recommendation that the nursing
27 home's contract with the federal Centers for Medicare and
28 Medicaid Services be terminated; requiring the appointment of an
29 independent manager to assume control over operations at the
30 nursing home on a temporary basis; denying payment for all
31 Medicaid claims submitted by the nursing home;¹ restricting new
32 admissions to the ¹**[(facility)] nursing home**, which may include
33 prohibiting the nursing home from accepting any new residents who
34 are Medicaid beneficiaries¹ ; requiring the transfer of residents to
35 another ¹**[(facility)] nursing home**; requiring closure of the nursing
36 home and immediate transfer of all the nursing home's residents to
37 another nursing home; requiring additional monitoring of the
38 nursing home, which may include placing the nursing home in the
39 special focus survey program established pursuant to paragraph (1)
40 of this subsection; establishing a directed plan of correction;
41 requiring nursing home staff and administrators to undergo directed
42 in-service training¹ ; ¹**[(or , in the case of a nursing home,)]**¹
43 petitioning a court of competent jurisdiction for appointment of a
44 receiver in accordance with the provisions of P.L.1977, c.238
45 (C.26:2H-36 et seq.) ¹; or taking any other administrative or
46 disciplinary actions as may be established by the Commissioner of

1 Health by regulation, which may be subject to approval by the
2 federal Centers for Medicare and Medicaid Services, if such
3 approval is required¹ .

4 ¹**[c.] b.**¹ The department shall ¹**[evaluate staffing levels and**
5 **competency by resident acuity and complexity, and]**¹ establish a
6 system to impose greater responsibility on each ¹**[long-term care**
7 **facility's]** nursing home's¹ medical director for quality outcomes at
8 the ¹**[facility, including imposing specific penalties or sanctions**
9 **against the medical director for repeated failure to produce**
10 **improvements in quality outcomes at the facility]** nursing home,
11 consistent with standards and guidelines promulgated by the federal
12 Centers for Medicare and Medicaid Services for state surveys of
13 nursing home medical directors¹.³

14
15 ³1. A nursing home, as defined under section 1 of P.L.1975,
16 c.397 (C.26:2H-29), cited for the same or a substantially similar F-
17 level deficiency or higher, as outlined in federal Centers for
18 Medicare and Medicaid Services guidance, at any point over a
19 three-year period during any standard or special survey conducted
20 pursuant to 42 U.S.C. s.488.308 or any other inspection conducted
21 by the Department of Health, or any third-party contractor or
22 instrumentality thereof, pursuant to State or federal law or
23 regulation, including in response to a complaint, shall be subject to
24 a penalty that shall be more severe than the penalty imposed for the
25 previous violation. The department may impose additional
26 penalties, sanctions, or corrective measures pursuant to regulation
27 when such deficiencies or violations involve noncompliance with
28 infection control requirements or result in severe adverse health
29 consequences for a resident or staff member of the nursing home.
30 This section shall not be construed to diminish any authority of the
31 Department of Health or any other department that exists pursuant
32 to any other law, rule, or regulation.³

33
34 2. To facilitate enforcement of department rules and
35 requirements concerning ¹**[long-term care facility]** nursing home¹
36 operations, ¹**[no later than 60 days after the effective date of this**
37 **act,]**¹ the department shall request and consolidate data concerning
38 ¹**[long-term care facilities]** nursing homes¹ reported to other State
39 and federal authorities, including the federal Centers for Medicare
40 and Medicaid Services, the Department of Human Services,
41 Medicaid managed care ¹**[plans]** organizations¹ , and the Long-
42 Term Care Ombudsman, in order to identify ¹**[long-term care**
43 **facilities]** nursing homes¹ with consistent or repeated performance
44 issues, ongoing compliance issues, or high numbers of substantiated
45 complaints. The department shall make the consolidated data
46 collected under this subsection available upon request to other State

1 and federal entities having jurisdiction over ¹["long-term care
2 facilities"] nursing homes¹ in the State.

3
4 3. a. ¹["No later than 60 days after the effective date of this act,
5 the"] The¹ department shall undertake a review of reporting
6 requirements for ¹["long-term care facilities"] nursing homes¹ and
7 shall take steps to standardize and consolidate the reporting
8 requirements for the purpose of: reducing the administrative
9 demand on ¹["the facilities of"] nursing homes in¹ complying with
10 reporting requirements; developing updated standardized data
11 reporting requirements; and improving the utility of the reported
12 data and the ability to share the data across systems, including ³, as
13 appropriate,³ systems maintained by other State departments and
14 agencies, county and local agencies, and federal authorities. The
15 department's review shall include:

16 (1) identifying and eliminating duplicative reporting;
17 (2) establishing standardized formats, requirements, protocols,
18 and systems for data reporting, which may include requiring
19 ¹["facilities"] nursing homes¹ to report data in machine-readable
20 formats to facilitate the processing and analysis of reported data;

21 (3) establishing a centralized, cross-agency workgroup to
22 monitor ¹["long-term care facility"] nursing home¹ reporting;

23 (4) assessing State health information technology needs to
24 support technology-enabled and data-driven regulatory oversight
25 across State departments and agencies, anticipate potential uses for
26 the enhanced technologies and systems, enable systems to readily
27 accept and analyze additional data metrics required pursuant to
28 subsection b. of this section, and identify opportunities to centralize
29 and modernize State health data infrastructure, processes, and
30 analytic capabilities;

31 (5) assessing ¹["long-term care facility"] nursing home¹ health
32 information technology needs to support population health
33 management, interoperability, and modernized reporting
34 requirements; and

35 (6) identifying and applying for federal funding to support
36 health information technology infrastructure development.

37 b. (1) The department shall require all ¹["long-term care
38 facilities to file with the department monthly and quarterly
39 unaudited financial information, quarterly unaudited financial
40 statements, annual audited financial statements, and such other
41 financial information as the department may request. The
42 information and statements reported by facilities pursuant to this
43 paragraph shall be posted on the department's"] nursing homes to
44 post on their¹ Internet ¹["website and updated as the information or
45 statements become available"] websites annual owner-certified
46 financial statements ²along with the nursing home's most recent
47 cost reports submitted to the federal Centers for Medicare and

1 Medicaid Services² . The department shall include on its Internet
 2 website a link to the page where each nursing home's certified
 3 financial statements² and cost reports² are posted. Nursing homes
 4 that are part of a health care system may post financial statements
 5 ²and cost reports² pursuant to this paragraph that aggregate the
 6 financial data across all nursing homes that are a part of that health
 7 care system¹ . ⁴A nonprofit nursing home that posts a copy of its
 8 most recent Internal Revenue Service Form 990 on its Internet
 9 website shall be deemed to have met the requirement for the nursing
 10 home to post an owner-certified financial statement on its Internet
 11 website pursuant to this paragraph, and the nursing home's posted
 12 Internal Revenue Service Form 990 shall be considered an owner-
 13 certified financial statement for the purposes of this paragraph and
 14 subparagraph (d) of paragraph (1) of subsection f. of this section.⁴

15 (2) The department shall require all ¹long-term care facilities
 16 nursing homes¹ to ³annually report to the department the
 17 number³ ²and severity² ³of facility-acquired infections
 18 occurring among residents of the³ ¹long-term care facility
 19 ³nursing home¹ in the preceding year involving³ :

20 (a) ³Methicillin-resistant Staphylococcus aureus (MRSA);
 21 (b) Clostrum difficile (C.Diff);
 22 (c) Surgical Site Infections After Colon Surgery (SSi-Colon);
 23 (d) Central Line-Associated Bloodstream Infections (CLABSI);
 24 (e) Catheter-Associated Urinary Tract Infections (CAUTI); and
 25 (f) any other facility-acquired infection for which the
 26 department requires annual reporting pursuant to regulations

27 adopted by the Commissioner of Health participate in the National
 28 Health Care Safety Network's Long-term Care Facility Component;

29 (b) complete the network's long-term care facility annual
 30 facility survey; and

31 (c) participate in the network's long-term care facility monthly
 32 reporting plan, including:

33 (i) the healthcare-associated infection reporting modules for
 34 urinary tract infections, the laboratory-identified event module for
 35 Clostrum difficile (C.diff) infection and multidrug-resistant
 36 organisms, and prevention measures; and

37 (ii) the monthly reporting plan for prevention process measures,
 38 including hand hygiene, gloves, and gown adherence³ .

39 c. The department ³shall may³ develop additional data
 40 reporting requirements for ¹long-term care facilities nursing
 41 homes¹ as are necessary to improve ³market³ transparency and
 42 facilitate the department's ability to oversee and regulate operations
 43 in ¹long-term care facilities nursing homes¹ , including, but not
 44 limited to, data related to occupancy, operating expenses and other
 45 appropriate financial metrics, and utilization and staffing data. In
 46 developing additional reporting requirements pursuant to this
 47 subsection, the department shall solicit feedback from ¹long-term

1 care facilities] nursing homes^{1 3}, advocacy groups for nursing home
 2 residents and their families, the New Jersey Long-Term Care
 3 Ombudsman,³ and Medicaid¹ managed care plans
 4 organizations¹ concerning proposed new data metrics, methods of
 5 maximizing the efficiency of data collection and specification,
 6 minimizing duplicative data reporting, and identifying ways to
 7 consolidate, automate, or streamline the data required to be reported
 8 by State and federal agencies and managed care plans
 9 organizations¹.

10 d. No later than 30 days after the effective date of this act,
 11 the The¹ department shall establish centralized State protocols for
 12 long-term care facility nursing home¹ communications to reduce
 13 duplicative outreach and enhance information sharing capabilities.

14 e. The department shall require long-term care facilities
 15 nursing homes¹ to:

16 (1) post on their Internet websites any policies or plans
 17 required to be in place at the facility pursuant to State law a link to
 18 the dashboard developed and maintained by the department
 19 pursuant to paragraph (1) of subsection f. of this section¹; and

20 (2) have a dedicated designate a¹ staff person available at
 21 all times to respond who shall be responsible for responding¹ to
 22 questions from the public concerning the nursing home, including
 23 questions about the nursing home's¹ policies and plans required
 24 to be posted on the facility's Internet website under paragraph (1) of
 25 this subsection , procedures, and operations¹. The contact
 26 information for the facility's designated staff person members of
 27 the public to direct questions and request information¹ shall be
 28 posted on the facility's nursing home's¹ Internet website.

29 f. (1)³ The department shall analyze data reported by³
 30 long-term care facilities nursing homes¹ for oversight
 31 purposes and shall make the results of its analysis public whenever
 32 possible ¹, provided that in no case shall the department make
 33 public any data or information it deems to be confidential or
 34 proprietary in nature or that it deems to be a trade secret¹. At a
 35 minimum, the department shall:

36 (1)³ develop, make available on its Internet website, and update
 37 at least monthly annually¹ quarterly², a data dashboard that
 38 includes the provides a separate page or listing for each nursing
 39 home licensed in the State with links to the sites where information
 40 and³ data reported by each relevant to the³ long-term care
 41 facility nursing home^{1 3} licensed in the State, including may be
 42 found, as well as a description of the data and information that is
 43 accessible through each link. The data dashboard shall be
 44 searchable by nursing home. The data and information links

1 available through the dashboard shall include, at a minimum, for
2 each nursing home³ :

3 (a) **1**[an overall performance score] the nursing home's star
4 rating issued by the federal Centers for Medicare and Medicaid
5 Services¹ ;

6 (b) the total number of complaints involving the **1**[facility]
7 nursing home¹ , the number and nature of substantiated complaints
8 involving the **1**[facility] nursing home¹ , the number of open
9 investigations of complaints involving **1**[facility] the nursing
10 home¹ , and the total number of outstanding complaints involving
11 the **1**[facility] nursing home¹ that have not been investigated or
12 resolved;

13 (c) **1**[the facility's star rating issued by the federal Centers for
14 Medicare and Medicaid Services;

15 (d)**1** the dates and results of inspections and surveys¹ of the
16 **1**[facility] nursing home¹ by the Department of Health, the
17 Department of Human Services, and the federal Centers for
18 Medicare and Medicaid Services, including links to any deficiencies
19 or violations for which the **1**[facility] nursing home¹ was cited and
20 to any corrective action plans in place at the **1**[facility] nursing
21 home¹ ;

22 **1**[(e)] (d)¹ a **1**[breakdown of any costs and financial data
23 reported by the facility] link to the website where each nursing
24 home's certified financial statements²and the nursing home's cost
25 reports submitted to the federal Centers for Medicare and Medicaid
26 Services² are posted¹ ;

27 **1**[(f)] (e)¹ general staffing levels at the **1**[facility] nursing
28 home¹ and ³, to the extent feasible,³ rates of compliance with
29 mandatory staffing ratios ³[, along with the average and overall
30 number of shifts during which the¹[facility] nursing home¹ was
31 out of compliance with staffing ratios]³ ;

32 **1**[(g)] (f)¹ the frequency with which antipsychotic medication
33 was administered to **1**[facility]¹ residents of the nursing home¹ ;

34 **1**[(h)] (g)¹ the number of residents who developed a pressure
35 ulcer, including the number of residents who developed multiple
36 pressure ulcers;

37 **1**[(i)] (h)¹ the number of ³each type of³ facility-acquired
38 ³[infections] infection³ at the **1**[facility] nursing home¹ as reported
39 ³to the National Health Care Safety Network's Long-term Care
40 Facility Component³ pursuant to paragraph (2) of subsection b. of
41 this section ²[, including details concerning the relative severity of
42 the facility-acquired infections]² ; and

43 **1**[(j)] (i)¹ such other data as the department determines
44 appropriate to allow the public to make informed choices when

1 evaluating and selecting a ¹["long-term care facility"] nursing home¹
2 ³["; and"] .³

3 (2) ³The department shall³ prepare and publish on its Internet
4 website annual reports on New Jersey's ¹["long-term care"] nursing
5 home¹ system of care.

6 ³["g. The department shall utilize the data dashboard established
7 pursuant to paragraph (1) of subsection f. of this section to develop
8 a performance improvement plan for all nursing homes throughout
9 the State, as well as to identify areas in need of improvement and
10 strategies to facilitate performance improvement in individual
11 nursing homes. In developing a Statewide performance
12 improvement plan, the department may consult with the Nursing
13 Home Advisory Council established pursuant to section 4 of
14 this act." ¹]

15 (3) For the purposes of making available to the public the data
16 described in subparagraph (h) of paragraph (1) of this subsection,
17 the department shall: request from the National Healthcare Safety
18 Network, on a quarterly basis, data concerning the number of
19 infections reported to the network by New Jersey nursing homes
20 pursuant to paragraph (2) of subsection b. of this section; make the
21 data available on the department's Internet website; and update the
22 data at least quarterly using the most current data obtained from the
23 National Healthcare Safety Network. The data shall provide details
24 concerning the number of reported infections, by infection type, for
25 each nursing home licensed in the State. The department shall
26 additionally provide on its Internet website data concerning the
27 Statewide and national averages for each type of reported infection
28 in nursing homes.³

29
30 ³["4. a. There is established in the Department of Health the
31 ¹["Long-Term Care Facility"] "Nursing Home" ¹Advisory Council."
32 The purpose of the council shall be to advise the department on
33 matters related to the oversight of ¹["long-term care facilities"]
34 nursing homes¹ and on issues concerning ¹["long-term care facility"]
35 nursing home¹ residents and their families, as well as to foster
36 communication with the public regarding ¹["long-term care
37 facilities"] nursing homes¹ . The responsibilities of the advisory
38 council shall include:

39 (1) analyzing and reviewing the results of inspections ¹and
40 surveys¹ of ¹["long-term care facility"] nursing homes¹ conducted by
41 the department, including the penalties assessed against ¹["long-term
42 care facilities"] nursing homes¹ and the department's adherence to
43 federal guidance concerning state inspections of ¹["long-term care
44 facilities"] nursing homes¹ ;

45 (2) receiving public comment on the results of ¹["long-term care
46 facility"] nursing home¹ inspections ¹and surveys¹ ; ¹["and"]¹

- 1 (3) consulting with the New Jersey Long-Term Care
2 Ombudsman as necessary ¹; and
- 3 (4) reviewing the data dashboard established pursuant to
4 paragraph (1) of subsection f. of section 3 of this act to identify
5 areas of concern within the nursing home industry and develop
6 recommendations for policies, plans, or strategies to foster
7 improvements in quality of care, resident and staff safety, and
8 overall performance in nursing homes licensed in the State¹ .
- 9 b. The advisory council shall consist of ¹~~seven~~ nine¹
10 members, as follows:
- 11 (1) the New Jersey Long-Term Care Ombudsman and the
12 Assistant Commissioner for the Division of Medical Assistance and
13 Health Services in the Department of Human Services, or their
14 designees, who shall serve ex officio;
- 15 (2) one ¹nursing home surveyor employed by the Department of
16 Health, to be named by the Commissioner of Health, who shall
17 serve ex officio;
- 18 (3) two¹ public ¹~~member~~ members¹ , to be appointed by the
19 Governor, ¹~~who shall be a representative of the long-term care~~
20 facility industry ¹~~one of whom shall be a representative of a for-~~
21 profit nursing home and one of whom shall be a representative of a
22 nonprofit nursing home¹ ; and
- 23 ¹~~(3)~~ (4)¹ four public members who are advocates for residents
24 of ¹~~long-term care facilities~~ nursing homes¹ , with two of the
25 public members to be appointed by the Senate President and two of
26 the public members to be appointed by the Speaker of the General
27 Assembly.
- 28 c. The public members of the advisory council shall be
29 appointed, and the advisory council shall first organize, no later
30 than 45 days after the effective date of this act. Upon organizing,
31 the advisory council shall select a chairperson and a vice-
32 chairperson from among its members. The chairperson shall
33 appoint a secretary to the advisory council, who need not be a
34 member of the advisory council.
- 35 d. Public members of the advisory council shall serve for a
36 term of five years, except that, of the members first appointed,
37 ¹~~one~~ two¹ shall serve for a term of three years, two shall serve for
38 a term of four years, and two shall serve for a term of five years.
39 Vacancies in the membership shall be filled in the same manner in
40 which the original appointments were made. Public members shall
41 be eligible for reappointment to the advisory council.
- 42 e. The advisory council shall meet on a quarterly basis at such
43 times and places as shall be designated by the chairperson. A
44 majority of the authorized membership shall constitute a quorum for
45 the purposes of the advisory council taking official action. All
46 meetings of the advisory council shall be open to the public.
47 Agendas, minutes, documents, and testimony from ¹~~all~~ each¹

1 meeting shall be posted on the Internet website of the Department
 2 of Health. The advisory council shall invite the Attorney General
 3 or a representative of the Office of the Attorney General, the State
 4 Auditor, the State Comptroller, and a representative of the
 5 Department of Health to be present at each meeting.

6 f. The members of the advisory council shall serve without
 7 compensation, but shall be eligible for reimbursement for necessary
 8 and reasonable expenses incurred in the performance of their duties
 9 on the council, within the limits of funds appropriated or otherwise
 10 made available to the advisory council for its purposes.

11 g. The advisory council shall be entitled to receive assistance
 12 and services from any State, county, or municipal department,
 13 board, commission, or agency, as may be available to it for its
 14 purposes. The Department of Health shall provide staff and
 15 administrative support to the advisory council.

16 h. The advisory council shall biannually prepare and submit a
 17 report concerning its analysis of the Department of Health's
 18 oversight and inspections of ¹~~["long-term care facilities"]~~ nursing
 19 homes¹ along with any recommendations for legislative or
 20 administrative action to the Governor and, pursuant to section 2 of
 21 P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The advisory
 22 council may provide additional recommendations to the Department
 23 of Health at any time upon request by the department. ³

24
 25 ³4. The department may adopt any regulations necessary to
 26 effectuate the purposes of this act on an expedited basis, which
 27 regulations shall be effective immediately upon filing with the
 28 Office of Administrative Law for a period not to exceed 18 months,
 29 and may, thereafter, be amended, adopted or readopted in
 30 accordance with the provisions of the "Administrative Procedure
 31 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).³

32
 33 5. ¹~~["This"]~~ ³~~["Sections 1 through 3 of this"]~~ ³~~["This"]~~ act shall take
 34 effect ³~~["180 days"]~~ on the first day of the 10th month³ after the date of
 35 enactment, ³~~["and"]~~ except that³ section 4 of this¹ act shall take effect
 36 immediately.

37
 38
 39
 40
 41 Establishes additional requirements for DOH to assess sanctions
 42 and impose penalties on nursing homes; revises reporting
 43 requirements for nursing homes.

ASSEMBLY, No. 4478

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JULY 30, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman HOLLY T. SCHEPISI

District 39 (Bergen and Passaic)

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

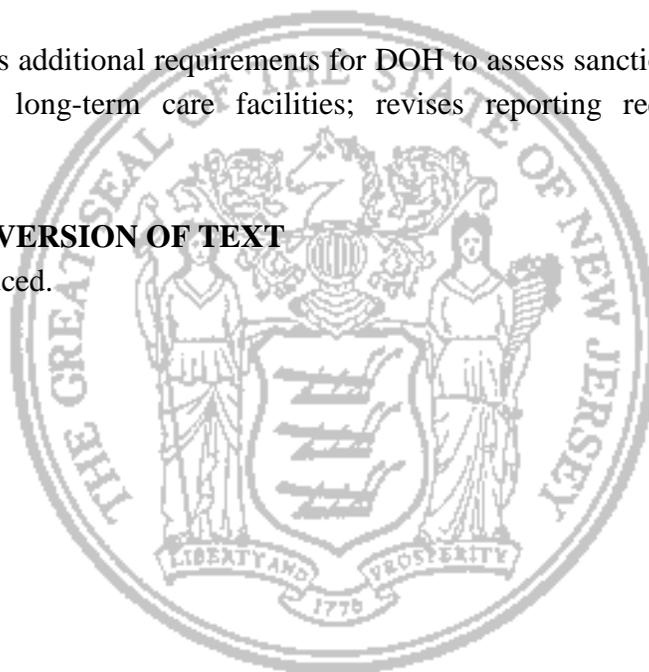
**Assemblywoman Dunn, Assemblymen DePhillips, Caputo,
Assemblywomen McKnight, DiMaso, Reynolds-Jackson, Assemblymen
Mejia, Danielsen, Assemblywoman Tucker, Assemblymen Holley and
Benson**

SYNOPSIS

Establishes additional requirements for DOH to assess sanctions and impose penalties on long-term care facilities; revises reporting requirements for facilities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/26/2020)

1 AN ACT concerning long-term care facilities and supplementing
2 Title 26 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. No later than 60 days after the effective date of this act, the
8 Department of Health shall develop a system of scaling actions and
9 penalties for repeat violations of State and federal requirements for
10 long-term care facility administration and operations, which actions
11 and penalties shall include:

12 a. Conducting a licensure survey of a long-term care facility
13 with three or more violations in a single year at least once every
14 two years for the next four years, or at more frequent intervals for a
15 period longer than four years, if circumstances warrant greater or
16 more frequent oversight; and

17 b. Assessing enhanced sanctions and other penalties for
18 continued or repeat noncompliance with department regulations,
19 particularly when the facility is cited multiple times for the same
20 violation or when violations involve noncompliance with infection
21 control requirements, which enhanced sanctions and penalties shall
22 include:

23 (1) a series of escalating fines for repeated violations or multiple
24 violations by the same facility, as well as increased fines when a
25 violation results in severe adverse health consequences for a
26 resident or staff member of the facility; and

27 (2) a series of escalating licensure actions for repeated
28 violations or multiple violations by the same facility, particularly in
29 cases where a violation results in severe adverse health
30 consequences for a resident or staff member at the facility, which
31 licensure actions shall include: suspending, terminating, or
32 revoking the facility's license; restricting new admissions to the
33 facility; requiring the transfer of residents to another facility; or, in
34 the case of a nursing home, petitioning a court of competent
35 jurisdiction for appointment of a receiver in accordance with the
36 provisions of P.L.1977, c.238 (C.26:2H-36 et seq.).

37 c. The department shall evaluate staffing levels and
38 competency by resident acuity and complexity, and establish a
39 system to impose greater responsibility on each long-term care
40 facility's medical director for quality outcomes at the facility,
41 including imposing specific penalties or sanctions against the
42 medical director for repeated failure to produce improvements in
43 quality outcomes at the facility.

44

45 2. To facilitate enforcement of department rules and
46 requirements concerning long-term care facility operations, no later
47 than 60 days after the effective date of this act, the department shall
48 request and consolidate data concerning long-term care facilities

1 reported to other State and federal authorities, including the federal
2 Centers for Medicare and Medicaid Services, the Department of
3 Human Services, Medicaid managed care plans, and the Long-Term
4 Care Ombudsman, in order to identify long-term care facilities with
5 consistent or repeated performance issues, ongoing compliance
6 issues, or high numbers of substantiated complaints. The
7 department shall make the consolidated data collected under this
8 subsection available upon request to other State and federal entities
9 having jurisdiction over long-term care facilities in the State.

10

11 3. a. No later than 60 days after the effective date of this act,
12 the department shall undertake a review of reporting requirements
13 for long-term care facilities and shall take steps to standardize and
14 consolidate the reporting requirements for the purpose of: reducing
15 the administrative demand on the facilities of complying with
16 reporting requirements; developing updated standardized data
17 reporting requirements; and improving the utility of the reported
18 data and the ability to share the data across systems, including
19 systems maintained by other State departments and agencies,
20 county and local agencies, and federal authorities. The
21 department's review shall include:

22 (1) identifying and eliminating duplicative reporting;

23 (2) establishing standardized formats, requirements, protocols,
24 and systems for data reporting, which may include requiring
25 facilities to report data in machine-readable formats to facilitate the
26 processing and analysis of reported data;

27 (3) establishing a centralized, cross-agency workgroup to
28 monitor long-term care facility reporting;

29 (4) assessing State health information technology needs to
30 support technology-enabled and data-driven regulatory oversight
31 across State departments and agencies, anticipate potential uses for
32 the enhanced technologies and systems, enable systems to readily
33 accept and analyze additional data metrics required pursuant to
34 subsection b. of this section, and identify opportunities to centralize
35 and modernize State health data infrastructure, processes, and
36 analytic capabilities;

37 (5) assessing long-term care facility health information
38 technology needs to support population health management,
39 interoperability, and modernized reporting requirements; and

40 (6) identifying and applying for federal funding to support
41 health information technology infrastructure development.

42 b. (1) The department shall require all long-term care facilities
43 to file with the department monthly and quarterly unaudited
44 financial information, quarterly unaudited financial statements,
45 annual audited financial statements, and such other financial
46 information as the department may request. The information and
47 statements reported by facilities pursuant to this paragraph shall be

1 posted on the department's Internet website and updated as the
2 information or statements become available.

3 (2) The department shall require all long-term care facilities to
4 annually report to the department the number and severity of
5 facility-acquired infections occurring among residents of the long-
6 term care facility in the preceding year involving:

7 (a) Methicillin-resistant *Staphylococcus aureus* (MRSA);

8 (b) *Clostrum difficile* (C.Diff);

9 (c) Surgical Site Infections After Colon Surgery (SSi-Colon);

10 (d) Central Line-Associated Bloodstream Infections (CLABSI);

11 (e) Catheter-Associated Urinary Tract Infections (CAUTI); and

12 (f) any other facility-acquired infection for which the
13 department requires annual reporting pursuant to regulations
14 adopted by the Commissioner of Health.

15 c. The department shall develop additional data reporting
16 requirements for long-term care facilities as are necessary to
17 improve market transparency and facilitate the department's ability
18 to oversee and regulate operations in long-term care facilities,
19 including, but not limited to, data related to occupancy, operating
20 expenses and other appropriate financial metrics, and utilization and
21 staffing data. In developing additional reporting requirements
22 pursuant to this subsection, the department shall solicit feedback
23 from long-term care facilities and managed care plans concerning
24 proposed new data metrics, methods of maximizing the efficiency
25 of data collection and specification, minimizing duplicative data
26 reporting, and identifying ways to consolidate, automate, or
27 streamline the data required to be reported by State and federal
28 agencies and managed care plans.

29 d. No later than 30 days after the effective date of this act, the
30 department shall establish centralized State protocols for long-term
31 care facility communications to reduce duplicative outreach and
32 enhance information sharing capabilities.

33 e. The department shall require long-term care facilities to:

34 (1) post on their Internet websites any policies or plans required
35 to be in place at the facility pursuant to State law; and

36 (2) have a dedicated staff person available at all times to
37 respond to questions from the public concerning the policies and
38 plans required to be posted on the facility's Internet website under
39 paragraph (1) of this subsection. The contact information for the
40 facility's designated staff person shall be posted on the facility's
41 Internet website.

42 f. The department shall analyze data reported by long-term
43 care facilities for oversight purposes and shall make the results of
44 its analysis public whenever possible. At a minimum, the
45 department shall:

46 (1) develop, make available on its Internet website, and update
47 at least monthly, a data dashboard that includes the data reported by
48 each long-term care facility licensed in the State, including:

- 1 (a) an overall performance score;
- 2 (b) the total number of complaints involving the facility, the
3 number and nature of substantiated complaints involving the
4 facility, the number of open investigations of complaints involving
5 facility, and the total number of outstanding complaints involving
6 the facility that have not been investigated or resolved;
- 7 (c) the facility's star rating issued by the federal Centers for
8 Medicare and Medicaid Services;
- 9 (d) the dates and results of inspections of the facility by the
10 Department of Health, the Department of Human Services, and the
11 federal Centers for Medicare and Medicaid Services, including links
12 to any deficiencies or violations for which the facility was cited and
13 to any corrective action plans in place at the facility;
- 14 (e) a breakdown of any costs and financial data reported by the
15 facility;
- 16 (f) general staffing levels at the facility and rates of compliance
17 with mandatory staffing ratios, along with the average and overall
18 number of shifts during which the facility was out of compliance
19 with staffing ratios;
- 20 (g) the frequency with which antipsychotic medication was
21 administered to facility residents;
- 22 (h) the number of residents who developed a pressure ulcer,
23 including the number of residents who developed multiple pressure
24 ulcers;
- 25 (i) the number of facility-acquired infections at the facility as
26 reported pursuant to paragraph (2) of subsection b. of this section,
27 including details concerning the relative severity of the facility-
28 acquired infections; and
- 29 (j) such other data as the department determines appropriate to
30 allow the public to make informed choices when evaluating and
31 selecting a long-term care facility; and
- 32 (2) prepare and publish on its Internet website annual reports on
33 New Jersey's long-term care system of care.

34
35 4. a. There is established in the Department of Health the
36 "Long-Term Care Facility Advisory Council." The purpose of the
37 council shall be to advise the department on matters related to the
38 oversight of long-term care facilities and on issues concerning long-
39 term care facility residents and their families, as well as to foster
40 communication with the public regarding long-term care facilities.
41 The responsibilities of the advisory council shall include:

- 42 (1) analyzing and reviewing the results of inspections of long-
43 term care facility conducted by the department, including the
44 penalties assessed against long-term care facilities and the
45 department's adherence to federal guidance concerning state
46 inspections of long-term care facilities;
- 47 (2) receiving public comment on the results of long-term care
48 facility inspections; and

- 1 (3) consulting with the New Jersey Long-Term Care
2 Ombudsman as necessary.
- 3 b. The advisory council shall consist of seven members, as
4 follows:
- 5 (1) the New Jersey Long-Term Care Ombudsman and the
6 Assistant Commissioner for the Division of Medical Assistance and
7 Health Services in the Department of Human Services, or their
8 designees, who shall serve ex officio;
- 9 (2) one public member, to be appointed by the Governor, who
10 shall be a representative of the long-term care facility industry; and
- 11 (3) four public members who are advocates for residents of
12 long-term care facilities, with two of the public members to be
13 appointed by the Senate President and two of the public members to
14 be appointed by the Speaker of the General Assembly.
- 15 c. The public members of the advisory council shall be
16 appointed, and the advisory council shall first organize, no later
17 than 45 days after the effective date of this act. Upon organizing,
18 the advisory council shall select a chairperson and a vice-
19 chairperson from among its members. The chairperson shall
20 appoint a secretary to the advisory council, who need not be a
21 member of the advisory council.
- 22 d. Public members of the advisory council shall serve for a
23 term of five years, except that, of the members first appointed, one
24 shall serve for a term of three years, two shall serve for a term of
25 four years, and two shall serve for a term of five years. Vacancies
26 in the membership shall be filled in the same manner in which the
27 original appointments were made. Public members shall be eligible
28 for reappointment to the advisory council.
- 29 e. The advisory council shall meet on a quarterly basis at such
30 times and places as shall be designated by the chairperson. A
31 majority of the authorized membership shall constitute a quorum for
32 the purposes of the advisory council taking official action. All
33 meetings of the advisory council shall be open to the public.
34 Agendas, minutes, documents, and testimony from all meeting shall
35 be posted on the Internet website of the Department of Health. The
36 advisory council shall invite the Attorney General or a
37 representative of the Office of the Attorney General, the State
38 Auditor, the State Comptroller, and a representative of the
39 Department of Health to be present at each meeting.
- 40 f. The members of the advisory council shall serve without
41 compensation, but shall be eligible for reimbursement for necessary
42 and reasonable expenses incurred in the performance of their duties
43 on the council, within the limits of funds appropriated or otherwise
44 made available to the advisory council for its purposes.
- 45 g. The advisory council shall be entitled to receive assistance
46 and services from any State, county, or municipal department,
47 board, commission, or agency, as may be available to it for its

1 purposes. The Department of Health shall provide staff and
2 administrative support to the advisory council.

3 h. The advisory council shall biannually prepare and submit a
4 report concerning its analysis of the Department of Health's
5 oversight and inspections of long-term care facilities along with any
6 recommendations for legislative or administrative action to the
7 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
8 19.1), to the Legislature. The advisory council may provide
9 additional recommendations to the Department of Health at any
10 time upon request by the department.

11

12 5. This act shall take effect immediately.

13

14

15

STATEMENT

16

17 This bill requires the Department of Health (DOH) to establish,
18 no later than 60 days after the effective date of the bill, a scaling
19 system of actions and penalties for long-term care facilities in
20 violation of State and federal requirements for long-term care
21 facility operation, establishes various requirements concerning
22 reporting requirements for long-term care facilities, and establishes
23 the Long-Term Care Facility Advisory Council.

24 The system of scaling actions and penalties to be developed by
25 the DOH will include: mandatory licensure surveys of long-term
26 care facilities with three or more violations in a single year, with at
27 least one survey to be completed every two years for the succeeding
28 four years unless more frequent surveys are warranted; and
29 assessing enhanced sanctions and other penalties for continued or
30 repeat noncompliance with DOH regulations, particularly when the
31 facility is cited multiple times for the same violation or when
32 violations involve noncompliance with infection control
33 requirements.

34 The enhanced sanctions and penalties will include a series of
35 escalating fines for severe violations or multiple violations by the
36 same facility, as well as a series of escalating licensure actions for
37 repeated violations or multiple violations by the same facility.
38 These licensure actions may include suspending, terminating, or
39 revoking the facility's license, restricting new admissions to the
40 facility, requiring the transfer of residents to another facility, or, in
41 the case of a nursing home, petitioning a court of competent
42 jurisdiction for the appointment of a receiver.

43 No later than 60 days after the effective date of the bill, the DOH
44 will be required to evaluate staffing levels and competency by
45 resident acuity and complexity and establish a system to impose
46 greater responsibility on each long-term care facility's medical
47 director for quality outcomes at the facility, including imposing
48 specific penalties or sanctions against the medical director for

1 repeated failure to produce improvements in quality outcomes at the
2 facility.

3 To facilitate enforcement of the rules and requirements for long-
4 term care facility operations, no later than 60 days after the
5 effective date of the bill, the DOH is to request and consolidate data
6 concerning long-term care facilities reported to other State and
7 federal authorities in order to identify long-term care facilities with
8 consistent or repeated performance issues, ongoing compliance
9 issues, or high numbers of substantiated complaints. The DOH is to
10 make the consolidated data available upon request to other State
11 and federal entities having jurisdiction over long-term care facilities
12 in New Jersey.

13 The bill additionally requires the DOH, within 60 days after the
14 effective date of the bill, to undertake a review of reporting
15 requirements for long-term care facilities and take steps to
16 standardize and consolidate the reporting requirements for the
17 purpose of reducing the administrative demand on the facilities of
18 complying with reporting requirements, developing updated
19 standardized data reporting requirements, and improving the utility
20 of the reported data and the ability to share the data across systems,
21 including systems maintained by other State departments and
22 agencies, county and local agencies, and federal authorities. The
23 DOH's review is to include:

- 24 (1) identifying and eliminating duplicative reporting;
- 25 (2) establishing standardized formats, requirements, protocols,
26 and systems for data reporting, which may include requiring
27 facilities to report data in machine-readable formats;
- 28 (3) establishing a centralized, cross-agency workgroup to
29 monitor long-term care facility reporting;
- 30 (4) assessing State health information technology needs to
31 support technology-enabled and data-driven regulatory oversight
32 across State departments and agencies, anticipate potential uses for
33 the enhanced technologies and systems, enable systems to readily
34 accept and analyze additional data metrics, and identify
35 opportunities to centralize and modernize State health data
36 infrastructure, processes, and analytic capabilities;
- 37 (5) assessing long-term care facility health information
38 technology needs to support population health management,
39 interoperability, and modernized reporting requirements; and
- 40 (6) identifying and applying for federal funding to support
41 health information technology infrastructure development.

42 The bill requires all long-term care facilities to file with the
43 DOH monthly and quarterly unaudited financial information,
44 quarterly unaudited financial statements, annual audited financial
45 statements, and such other financial information as the department
46 may request. The information and statements will be posted on the
47 department's Internet website and updated as they become
48 available.

1 The bill additionally requires all long-term care facilities to
2 annually report to the DOH the number and severity of facility-
3 acquired infections occurring among residents of the long-term care
4 facility in the preceding year involving: Methicillin-resistant
5 *Staphylococcus aureus* (MRSA); *Clostrum difficile* (C.Diff);
6 Surgical Site Infections After Colon Surgery (SSi-Colon); Central
7 Line-Associated Bloodstream Infections (CLABSI); Catheter-
8 Associated Urinary Tract Infections (CAUTI); and any other
9 facility-acquired infection for which the DOH requires annual
10 reporting by regulation.

11 The DOH will be required to develop additional data reporting
12 requirements for long-term care facilities as are necessary to
13 improve market transparency and facilitate the department's ability
14 to oversee and regulate operations in long-term care facilities,
15 including, but not limited to, data related to occupancy, operating
16 expenses and other appropriate financial metrics, and utilization and
17 staffing data. In developing additional reporting requirements, the
18 department is to solicit feedback from long-term care facilities and
19 managed care plans concerning proposed new data metrics, methods
20 of maximizing the efficiency of data collection and specification,
21 minimizing duplicative data reporting, and identifying ways to
22 consolidate, automate, or streamline reported data.

23 The DOH will also be required to establish, no later than 30 days
24 after the effective date of the bill, centralized State protocols for
25 long-term care facility communications to reduce duplicative
26 outreach and enhance information sharing capabilities.

27 Long-term care facilities will be required to post on their Internet
28 websites any policies or plans required to be in place at the facility
29 pursuant to State law and have a dedicated staff person available at
30 all times to respond to questions from the public concerning the
31 policies and plans required to be posted on the facility's Internet
32 website.

33 The DOH will be required to analyze data reported by long-term
34 care facilities for oversight purposes and make the results of its
35 analysis public whenever possible. At a minimum, the DOH will be
36 required to develop, make available on its Internet website, and
37 update at least monthly, a data dashboard that includes the data
38 reported by each long-term care facility licensed in the State. The
39 data dashboard will include: an overall performance score; details
40 concerning the number and status of complaints involving the
41 facility; the facility's star rating issued by the federal Centers for
42 Medicare and Medicaid Services (CMS); the dates and results of
43 inspections of the facility by the DOH, the Department of Human
44 Services, and CMS, including links to any deficiencies or violations
45 for which the facility was cited and to any corrective action plans in
46 place at the facility; a breakdown of any costs and financial data
47 reported by the facility; general staffing levels at the facility and
48 rates of compliance with mandatory staffing ratios; the frequency

1 with which antipsychotic medication was administered to facility
2 residents; information concerning pressure ulcers and facility-
3 acquired infections; and any other data required by the DOH. The
4 DOH will additionally be required to prepare and publish on its
5 Internet website annual reports on New Jersey's long-term care
6 system of care.

7 The bill establishes in the DOH the "Long-Term Care Facility
8 Advisory Council." The purpose of the council will be to advise the
9 DOH on matters related to the oversight of long-term care facilities
10 and on issues concerning long-term care facility residents and their
11 families, as well as to foster communication with the public
12 regarding long-term care facilities. The responsibilities of the
13 advisory council will include:

14 (1) analyzing and reviewing the results of long-term care facility
15 inspection conducted by the DOH, including the penalties assessed
16 against long-term care facilities and the department's adherence to
17 federal guidance concerning state inspections of long-term care
18 facilities;

19 (2) receiving public comment on the results of long-term care
20 facility inspections; and

21 (3) consulting with the New Jersey Long-Term Care
22 Ombudsman as necessary.

23 The advisory council will consist of seven members, including:
24 the New Jersey Long-Term Care Ombudsman and the Assistant
25 Commissioner for the Division of Medical Assistance and Health
26 Services in the Department of Human Services, or their designees,
27 who will serve ex officio; one public member, to be appointed by
28 the Governor, who is to be a representative of the long-term care
29 facility industry; and four public members who are advocates for
30 residents of long-term care facilities, with two of the public
31 members to be appointed by the Senate President and two of the
32 public members to be appointed by the Speaker of the General
33 Assembly.

34 The public members of the advisory council are to be appointed,
35 and the advisory council is to organize, no later than 45 days after
36 the effective date of the bill.

37 The advisory council will meet on a quarterly basis at times and
38 places as may be designated by the chairperson. All meetings of the
39 advisory council will be open to the public, and agendas, minutes,
40 documents, and testimony from all meeting will be posted on the
41 DOH's Internet website. The advisory council will be required to
42 invite the Attorney General or a representative of the Office of the
43 Attorney General, the State Auditor, the State Comptroller, and a
44 representative of the SOH to be present at each meeting.

45 The advisory council will be required to prepare and submit
46 biannual reports concerning its analysis of the DOH's oversight and
47 inspections of long-term care facilities along with any
48 recommendations for legislative or administrative action to the

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- 1 Governor and to the Legislature. The advisory council will be
- 2 authorized to provide additional recommendations to the DOH at
- 3 any time upon request.

ASSEMBLY AGING AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4478

STATE OF NEW JERSEY

DATED: OCTOBER 8, 2020

The Assembly Aging and Senior Services Committee reports favorably Assembly Bill No. 4478.

This bill requires the Department of Health (DOH) to establish, no later than 60 days after the bill's effective date, a scaling system of actions and penalties for long-term care facilities that are in violation of State and federal requirements for long-term care facility operation. The bill also imposes various reporting requirements on long-term care facilities and establishes a Long-Term Care Facility Advisory Council in the DOH.

The system of scaling actions and penalties that is to be developed by the DOH under the bill is to provide for: 1) the undertaking of mandatory licensure surveys of long-term care facilities having three or more violations in a single year, with at least one survey to be completed every two years for the succeeding four years unless more frequent surveys are warranted; and 2) the assessment of enhanced sanctions and other penalties for continued or repeated noncompliance with DOH regulations, particularly when the facility is cited multiple times for the same violation or when violations involve noncompliance with infection control requirements. The enhanced sanctions and penalties are to include a series of escalating fines for severe violations or for multiple violations by the same facility, as well as a series of escalating licensure actions when repeated or multiple violations are committed by the same facility. These licensure actions may include suspending, terminating, or revoking the facility's license, restricting new admissions to the facility, requiring the transfer of residents to another facility, or, in the case of a nursing home, petitioning a court of competent jurisdiction for the appointment of a receiver.

No later than 60 days after the effective date of the bill, the DOH will be required to evaluate staffing levels and competency by resident acuity and complexity and establish a system to impose greater responsibility on each long-term care facility's medical director for quality outcomes at the facility, including imposing specific penalties or sanctions against the medical director for repeated failure to produce improvements in quality outcomes at the facility.

To facilitate enforcement of the rules and requirements for long-term care facility operations, no later than 60 days after the effective date of the bill, the DOH is to request and consolidate data concerning long-term care facilities reported to other State and federal authorities

in order to identify long-term care facilities with consistent or repeated performance issues, ongoing compliance issues, or high numbers of substantiated complaints. The DOH is to make the consolidated data available, upon request, to other State and federal entities having jurisdiction over long-term care facilities in New Jersey.

The bill additionally requires the DOH, within 60 days after the effective date of the bill, to undertake a review of reporting requirements for long-term care facilities and take steps to standardize and consolidate the reporting requirements for the purpose of reducing the administrative demand on the facilities of complying with reporting requirements, developing updated standardized data reporting requirements, and improving the utility of the reported data and the ability to share the data across systems, including systems maintained by other State departments and agencies, county and local agencies, and federal authorities. The DOH's review is to include:

- (1) identifying and eliminating duplicative reporting;
- (2) establishing standardized formats, requirements, protocols, and systems for data reporting, which may include requiring facilities to report data in machine-readable formats;
- (3) establishing a centralized, cross-agency workgroup to monitor long-term care facility reporting;
- (4) assessing State health information technology needs to support technology-enabled and data-driven regulatory oversight across State departments and agencies, anticipate potential uses for the enhanced technologies and systems, enable systems to readily accept and analyze additional data metrics, and identify opportunities to centralize and modernize State health data infrastructure, processes, and analytic capabilities;
- (5) assessing long-term care facility health information technology needs to support population health management, interoperability, and modernized reporting requirements; and
- (6) identifying and applying for federal funding to support health information technology infrastructure development.

The bill requires all long-term care facilities to file with the DOH monthly and quarterly unaudited financial information, quarterly unaudited financial statements, annual audited financial statements, and such other financial information as the department may request. The information and statements will be posted on the department's Internet website and updated as they become available.

The bill additionally requires all long-term care facilities to annually report to the DOH the number and severity of facility-acquired infections occurring among residents of the long-term care facility in the preceding year involving the following facility-acquired infections: Methicillin-resistant *Staphylococcus aureus* (MRSA); *Clostridium difficile* (C.Diff); Surgical Site Infections After Colon Surgery (SSi-Colon); Central Line-Associated Bloodstream Infections (CLABSI); Catheter-Associated Urinary Tract Infections (CAUTI);

and any other facility-acquired infection for which the DOH requires annual reporting by regulation.

The DOH will be required to develop additional data reporting requirements for long-term care facilities as are necessary to improve market transparency and facilitate the department's ability to oversee and regulate operations in long-term care facilities, including, but not limited to, data related to occupancy, operating expenses and other appropriate financial metrics, and utilization and staffing data. In developing additional reporting requirements, the department is to solicit feedback from long-term care facilities and managed care plans concerning proposed new data metrics, methods of maximizing the efficiency of data collection and specification, minimizing duplicative data reporting, and identifying ways to consolidate, automate, or streamline reported data.

The DOH will also be required to establish, no later than 30 days after the effective date of the bill, centralized State protocols for long-term care facility communications to reduce duplicative outreach and enhance information sharing capabilities.

Long-term care facilities will be required to post on their Internet websites any policies or plans required to be in place at the facility pursuant to State law and have a dedicated staff person available at all times to respond to questions from the public concerning the policies and plans required to be posted on the facility's Internet website.

The DOH will be required to analyze data reported by long-term care facilities for oversight purposes and make the results of its analysis public whenever possible. At a minimum, the DOH will be required to develop, make available on its Internet website, and update at least monthly, a data dashboard that includes the data reported by each long-term care facility licensed in the State. The data dashboard will include: an overall performance score; details concerning the number and status of complaints involving the facility; the facility's star rating issued by the federal Centers for Medicare and Medicaid Services (CMS); the dates and results of inspections of the facility by the DOH, the Department of Human Services, and CMS, including links to any deficiencies or violations for which the facility was cited and any corrective action plans that are in place at the facility; a breakdown of any costs and financial data reported by the facility; general staffing levels at the facility and rates of compliance with mandatory staffing ratios; the frequency with which antipsychotic medication was administered to facility residents; information concerning pressure ulcers and facility-acquired infections; and any other data required by the DOH. The DOH will additionally be required to prepare and publish, on its Internet website, annual reports on New Jersey's long-term care system of care.

The bill establishes in the DOH the "Long-Term Care Facility Advisory Council." The purpose of the council will be to advise the DOH on matters related to the oversight of long-term care facilities

and on issues concerning long-term care facility residents and their families, as well as to foster communication with the public regarding long-term care facilities. The responsibilities of the advisory council will include:

(1) analyzing and reviewing the results of long-term care facility inspections conducted by the DOH, including the penalties assessed against long-term care facilities and the department's adherence to federal guidance concerning State inspections of long-term care facilities;

(2) receiving public comment on the results of long-term care facility inspections; and

(3) consulting with the New Jersey Long-Term Care Ombudsman as necessary.

The advisory council will consist of seven members, including: the New Jersey Long-Term Care Ombudsman and the Assistant Commissioner for the Division of Medical Assistance and Health Services in the Department of Human Services, or their designees, who will serve *ex officio*; one public member, to be appointed by the Governor, who is to be a representative of the long-term care facility industry; and four public members who are advocates for residents of long-term care facilities, with two of the public members to be appointed by the Senate President and two of the public members to be appointed by the Speaker of the General Assembly.

The public members of the advisory council are to be appointed, and the advisory council is to organize, no later than 45 days after the effective date of the bill.

The advisory council will meet on a quarterly basis at times and places as may be designated by the chairperson. All meetings of the advisory council will be open to the public, and agendas, minutes, documents, and testimony from all meeting will be posted on the DOH's Internet website. The advisory council will be required to invite the Attorney General or a representative of the Office of the Attorney General, the State Auditor, the State Comptroller, and a representative of the SOH to be present at each meeting.

The advisory council will be required to prepare and submit biannual reports concerning its analysis of the DOH's oversight and inspections of long-term care facilities along with any recommendations for legislative or administrative action to the Governor and to the Legislature. The advisory council will be authorized to provide additional recommendations to the DOH at any time upon request.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4478

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 26, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4478, with committee amendments.

As amended by the committee, this bill requires the Department of Health (DOH) to develop a system of scaling actions and penalties for repeat violations of State and federal requirements for nursing home administration and operations.

Specifically, the DOH is to develop a special focus survey program for nursing homes with a history of chronic, repeat violations of State or federal requirements for nursing home administration or operations, or a history of noncompliance with corrective plans or administrative disciplinary actions, over the past three inspection cycles, which program will include the use of additional, focused surveys to determine whether the nursing home is taking appropriate steps to remediate the conditions that contributed to violations cited at the facility. The program will incorporate more-stringent penalties, sanctions, and corrective measures, including suspension or revocation of the facility's license or issuing a recommendation that the facility's contract with the federal Centers for Medicare and Medicaid Services (CMS) be terminated, for issues that are of longer duration or where the nursing home fails to demonstrate improvement following the imposition of less-stringent penalties, sanctions, or corrective measures. A nursing home included in the program will remain in the program for a period of at least 18 months. Any nursing home that qualifies for inclusion in the CMS Special Focus Facility Program that is not placed in that program will be automatically included in the special focus survey program.

Additionally, the DOH is to assess enhanced sanctions and other penalties for continued or repeat noncompliance with department regulations, particularly when the nursing home is cited two or more times for the same violation within a six-month period or when violations involve noncompliance with infection control requirements, including a series of escalating fines and licensure actions for repeated violations or multiple violations by the same nursing home, particularly in cases where a violation resulted in severe adverse health consequences for a resident or staff member at the nursing home. The amended bill enumerates the specific licensure actions that may be

taken, including suspending or revoking the nursing home's license, recommending the nursing home's contract with CMS be terminated, denying payment of Medicaid claims, appointing an independent manager to assume control over the nursing home, appointing a receiver, requiring directed in-service training, establishing a directed plan of correction, or taking other actions as may be provided by the Commissioner of Health by regulation.

The DOH will be required to establish a system to impose greater responsibility on each nursing home's medical director for quality outcomes at the nursing home, consistent with standards and guidelines promulgated by CMS for state surveys of nursing home medical directors.

To facilitate enforcement of rules and requirements concerning nursing home operations, the DOH will be required to request and consolidate nursing home data reported to other State and federal authorities in order to identify nursing homes with consistent or repeated performance issues, ongoing compliance issues, or high numbers of substantiated complaints. The DOH is to make the consolidated data available upon request to other State and federal entities having jurisdiction over nursing homes in the State.

The bill, as amended, requires the DOH to undertake a review of reporting requirements for nursing homes and take steps to standardize and consolidate the reporting requirements for the purpose of reducing the administrative demand of complying with reporting requirements, developing updated standardized data reporting requirements, and improving the utility of the reported data and the ability to share the data across systems. This review is to include:

- (1) identifying and eliminating duplicative reporting;
- (2) establishing standardized formats, requirements, protocols, and systems for data reporting;
- (3) establishing a centralized, cross-agency workgroup to monitor nursing home reporting;
- (4) assessing State health information technology needs to support technology-enabled and data-driven regulatory oversight across State departments and agencies, anticipate potential uses for the enhanced technologies and systems, enable systems to readily accept and analyze additional data metrics, and identify opportunities to centralize and modernize State health data infrastructure, processes, and analytic capabilities;
- (5) assessing nursing home health information technology needs to support population health management, interoperability, and modernized reporting requirements; and
- (6) identifying and applying for federal funding to support health information technology infrastructure development.

All nursing homes will be required to post on their Internet websites annual owner-certified financial statements. The DOH will be required to provide, on its Internet website, a link to the sites where

the nursing homes' financial statements are posted. If the nursing home is part of a system of nursing homes, the nursing home may post aggregate financial data for all nursing homes that are part of that system.

All nursing homes will additionally be required to report the number and severity of certain facility-acquired infections occurring among residents of the nursing home in the preceding year.

The DOH will be required to develop additional data reporting requirements for nursing homes as are necessary to improve market transparency and facilitate the DOH's ability to oversee and regulate operations in nursing homes, including, but not limited to, data related to occupancy, operating expenses and other appropriate financial metrics, and utilization and staffing data. In developing additional reporting requirements, the DOH will be required to solicit feedback from nursing homes and Medicaid managed care organizations (MCOs) concerning proposed new data metrics, methods of maximizing the efficiency of data collection and specification, minimizing duplicative data reporting, and identifying ways to consolidate, automate, or streamline the data required to be reported by State and federal agencies and MCOs.

The DOH will be required to establish centralized State protocols for nursing home communications to reduce duplicative outreach and enhance information sharing capabilities.

The DOH will further require nursing homes to post on their Internet websites a link to the dashboard developed and maintained by the DOH under the bill and designate a staff person who will be responsible for responding to questions from the public concerning the nursing home's policies, procedures, and operations. The contact information for the designated staff person will be posted on the nursing home's website.

The DOH will be required to analyze data reported by nursing homes for oversight purposes and make the results of its analysis public whenever possible, provided that nothing in the bill will require the disclosure of any information the DOH deems to be confidential, proprietary, or a trade secret. At a minimum, the DOH is to develop, make available on its Internet website, and update at least annually, a data dashboard that includes the data reported by each nursing home licensed in the State, including:

- (1) the nursing home's star rating issued by CMS;
- (2) complaints involving the nursing home, including substantiated complaints, open investigations, and complaints that have not been investigated or resolved;
- (3) the dates and results of inspections and surveys of the nursing home by State and federal authorities, including links to any deficiencies or violations for which the nursing home was cited and to any corrective action plans in place at the nursing home;
- (4) a link to the certified financial statements for the nursing home;

(5) general staffing levels at the nursing home and rates of compliance with mandatory staffing ratios, along with the average and overall number of shifts during which the nursing home was out of compliance with staffing ratios;

(6) the frequency with which antipsychotic medication was administered to residents of the nursing home;

(7) the number of pressure ulcers developed by residents;

(8) facility-acquired infections at the nursing home; and

(9) any other data the DOH determines appropriate to allow the public to make informed choices when evaluating and selecting a nursing home.

The DOH is to utilize the data dashboard to develop a performance improvement plan for all nursing homes throughout the State, as well as to identify areas in need of improvement and strategies to facilitate performance improvement in individual nursing homes.

The DOH will additionally be required to prepare and publish on its Internet website annual reports on New Jersey's nursing home system of care.

The amended bill additionally establishes the "Nursing Home Advisory Council" in the DOH, the purpose of which will be to advise the DOH on matters related to the oversight of nursing homes and on issues concerning nursing home residents and their families, as well as to foster communication with the public regarding nursing homes. The specific responsibilities of the advisory council will include: analyzing and reviewing the results of inspections and surveys of nursing homes, including the penalties assessed against nursing homes and the DOH's adherence to federal guidance concerning state inspections of nursing homes; receiving public comment on the results of nursing home inspections and surveys; consulting with the New Jersey Long-Term Care Ombudsman as necessary; and reviewing the data dashboard established under the bill to identify areas of concern within the nursing home industry and develop recommendations to foster improvements in quality of care, resident and staff safety, and overall performance.

The advisory council will consist of nine members, including the New Jersey Long-Term Care Ombudsman and the Assistant Commissioner for the Division of Medical Assistance and Health Services in the Department of Human Services, or their designees, who will serve ex officio; one nursing home surveyor employed by the DOH, to be named by the Commissioner of Health, who will serve ex officio; two public members, to be appointed by the Governor, with one member representing a for-profit nursing home and one member representing a nonprofit nursing home; and four public members who are advocates for nursing home residents, with two of the public members to be appointed by the Senate President and two of the public members to be appointed by the Speaker of the General Assembly.

The public members of the advisory council are to be appointed, and the advisory council is to first organize, no later than 45 days after the effective date of the bill. Public members of the advisory council will serve for a term of five years, with staggered terms of appointment for the members first appointed. Public members will be eligible for reappointment to the advisory council.

The advisory council will meet on a quarterly basis at such times and places as are designated by the chairperson. A majority of the authorized membership will constitute a quorum for the purposes of taking official action. All meetings of the advisory council will be open to the public. Agendas, minutes, documents, and testimony from each meeting will be posted on the DOH's Internet website. The advisory council is to invite the Attorney General or a representative, the State Auditor, the State Comptroller, and a representative of the DOH to be present at each meeting.

The advisory council will be required to biannually prepare and submit a report concerning its analysis of the DOH's oversight and inspections of nursing homes, along with any recommendations for legislative or administrative action, to the Governor and the Legislature. The advisory council may provide additional recommendations to the DOH at any time upon request.

COMMITTEE AMENDMENTS:

The committee amendments revise the bill to make it applicable only to nursing homes, rather than to all long-term care facilities. The amendments revise the title and synopsis of the bill to reflect this change.

The committee amendments revise the specific actions and penalties the DOH can take under the bill to remove language concerning additional licensure surveys and instead establish a special focus survey program for facilities with a history of chronic, repeat violations or noncompliance with administrative enforcement actions.

The committee amendments clarify language providing that enhanced sanctions that may be imposed against a facility with multiple citations for the same violation, to provide that the enhanced sanctions may be imposed on nursing homes with two or more citations for the same violation in a six-month period.

The committee amendments enumerate specific licensure actions that may be imposed against a nursing home for repeat or multiple violations.

The committee amendments remove a requirement for the DOH to evaluate staffing levels and competency by resident acuity and complexity.

The committee amendments remove language requiring the DOH to impose specific penalties against a nursing home's medical director for failure to produce quality improvements at the facility, and instead provide that the system to impose greater responsibility on medical

directors is to be consistent with CMS guidelines for state surveys of nursing home medical directors.

The committee amendments remove a requirement for nursing homes to submit monthly and quarterly unaudited financial information, annual audited financial statements, and certain other financial information to the DOH, and provide instead that each nursing home will be required to post annual owner-certified financial statements on its own Internet website, with the DOH providing a link to the facility's financial statements on the DOH website. The financial data will no longer be reported to the DOH. The committee amendments provide that nursing homes systems will be permitted to publish aggregate financial statements for all nursing homes that are part of the system.

The committee amendments remove a provision that would have required nursing homes to post all policies and plans in effect at the nursing home on their Internet websites, and instead require nursing home websites to include a link to the DOH's data dashboard.

The committee amendments revise language that would have required nursing homes to have a dedicated staff person available at all times to respond to questions from the public, to instead require the nursing home to designate a staff person responsible for responding to questions from the public.

The committee amendments provide that the DOH is not to make public any information it deems to be confidential, proprietary, or a trade secret.

The committee amendments revise the requirements for the data dashboard to require the DOH to update it annually, rather than monthly. The DOH will no longer be required to develop a performance score for nursing homes. The dashboard will include information about nursing home surveys as well as inspections.

The committee amendments add language providing that the DOH is to use the data dashboard to develop a performance improvement plan for all nursing homes, as well as to identify issues at individual nursing homes.

The committee amendments change the name of the "Long-Term Care Facility Advisory Council" being established under the bill to the "Nursing Home Advisory Council," and revise the membership to include a DOH nursing home surveyor, who will serve ex officio, and one additional public member to be appointed by the Governor. The amendments provide that, of the Governor's two appointees to the council, one will represent for-profit nursing homes and one will represent nonprofit nursing homes.

The committee amendments provide that the advisory council is to review the data dashboard established under the bill to identify areas of concern within the nursing home industry and develop recommendations for improvements.

The committee amendments remove certain deadlines for the DOH to take action and instead provide that the bill will take effect 180 days after the date of enactment, except that the provisions establishing the advisory council will take effect immediately.

The committee amendments make certain technical corrections to fix typographical errors, adjust internal numbering, and to update certain terminology.

FISCAL IMPACT:

The Office of Legislative Services concludes that State costs would increase by an indeterminate, albeit significant, amount for the Department of Health (DOH) to implement the additional data reporting, regulatory, and oversight requirements under this bill.

The special focus survey program established under this bill requires a significant investment of DOH resources to purchase, or develop and implement, an intensive nursing home survey tool, and to hire sufficient staff to oversee program operations, conduct surveys, and monitor the status of those nursing homes enrolled in the program. The enhanced sanctions and penalties that the bill establishes for nursing homes with repeated regulatory noncompliance or violations of infection control regulations would also require the DOH to hire and train additional staff to oversee facilities' compliance with the sanctions and penalties, and ensure that facilities' operations improve in response to these regulatory measures. The escalating fines and penalties imposed on troubled nursing homes will increase State revenues, but the OLS cannot estimate the magnitude of this revenue increase because the bill does not establish either the magnitude of the fines, or the schedule on which fines will be levied on noncompliant facilities.

The DOH will also incur additional costs to develop new, streamlined data collection, reporting, and sharing procedures under this bill. Not only will the DOH need additional staff to manage the collection, standardization, and reporting of a substantial influx of new nursing home data, but the department will also require a significant financial investment in health information technology to process these data, share them with other State and federal authorities, and establish a publicly-facing nursing home data dashboard on the department's website. Although the bill mandates that the DOH apply for any available federal funds to help support the costs of health information technology infrastructure development, it is uncertain to what extent any awards of federal funds may offset the costs to the State. State expenditures will also increase due to a requirement that the DOH utilize the data dashboard to develop a performance improvement plan for nursing homes throughout the State, as well as strategies to facilitate performance improvement.

Finally, Department of Military and Veterans' Affairs (DMAVA) and county-operated nursing homes will incur additional expenses to

comply with the increased operational and data reporting requirements imposed pursuant to this bill. These facilities may also face significant expenses for upgrades to the facilities' data collection and reporting systems needed to report supplemental data to the State. To the extent that any of the DMAVA- or county-operated nursing homes are assessed escalating fines or enhanced penalties or sanctions, the State and certain counties would incur additional costs.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4478

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 21, 2021

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 4478 (1R), with committee amendments.

As amended by the committee, this bill requires the Department of Health (DOH) to develop a system of scaling actions and penalties for repeat violations of State and federal requirements for nursing home administration and operations.

Specifically, the DOH is to develop a special focus survey program for nursing homes with a history of chronic, repeat violations of State or federal requirements for nursing home administration or operations, or a history of noncompliance with corrective plans or administrative disciplinary actions, over the past three inspection cycles, which program will include the use of additional, focused surveys to determine whether the nursing home is taking appropriate steps to remediate the conditions that contributed to violations cited at the facility. The program will incorporate more-stringent penalties, sanctions, and corrective measures, including suspension or revocation of the facility's license or issuing a recommendation that the facility's contract with the federal Centers for Medicare and Medicaid Services (CMS) be terminated, for issues that are of longer duration or where the nursing home fails to demonstrate improvement following the imposition of less-stringent penalties, sanctions, or corrective measures. A nursing home included in the program will remain in the program for a period of at least 18 months. Any nursing home that qualifies for inclusion in the CMS Special Focus Facility Program that is not placed in that program will be automatically included in the special focus survey program.

Additionally, the DOH is to assess enhanced sanctions and other penalties for continued or repeat noncompliance with department regulations, particularly when the nursing home is cited two or more times for the same violation within a six-month period or when violations involve noncompliance with infection control requirements, including a series of escalating fines and licensure actions for repeated violations or multiple violations by the same nursing home, particularly in cases where a violation resulted in severe adverse health

consequences for a resident or staff member at the nursing home. The bill enumerates the specific licensure actions that may be taken, including suspending or revoking the nursing home's license, recommending the nursing home's contract with CMS be terminated, denying payment of Medicaid claims, appointing an independent manager to assume control over the nursing home, appointing a receiver, requiring directed in-service training, establishing a directed plan of correction, or taking other actions as may be provided by the Commissioner of Health by regulation.

The DOH will be required to establish a system to impose greater responsibility on each nursing home's medical director for quality outcomes at the nursing home, consistent with standards and guidelines promulgated by CMS for state surveys of nursing home medical directors.

To facilitate enforcement of rules and requirements concerning nursing home operations, the DOH will be required to request and consolidate nursing home data reported to other State and federal authorities in order to identify nursing homes with consistent or repeated performance issues, ongoing compliance issues, or high numbers of substantiated complaints. The DOH is to make the consolidated data available upon request to other State and federal entities having jurisdiction over nursing homes in the State.

The bill requires the DOH to undertake a review of reporting requirements for nursing homes and take steps to standardize and consolidate the reporting requirements for the purpose of reducing the administrative demand of complying with reporting requirements, developing updated standardized data reporting requirements, and improving the utility of the reported data and the ability to share the data across systems. This review is to include:

- (1) identifying and eliminating duplicative reporting;
- (2) establishing standardized formats, requirements, protocols, and systems for data reporting;
- (3) establishing a centralized, cross-agency workgroup to monitor nursing home reporting;
- (4) assessing State health information technology needs to support technology-enabled and data-driven regulatory oversight across State departments and agencies, anticipate potential uses for the enhanced technologies and systems, enable systems to readily accept and analyze additional data metrics, and identify opportunities to centralize and modernize State health data infrastructure, processes, and analytic capabilities;
- (5) assessing nursing home health information technology needs to support population health management, interoperability, and modernized reporting requirements; and
- (6) identifying and applying for federal funding to support health information technology infrastructure development.

All nursing homes will be required to post on their Internet websites annual owner-certified financial statements along with the facility's most recent cost reports submitted to the CMS. The DOH will be required to provide, on its Internet website, a link to the sites where the nursing homes' financial statements and cost reports are posted. If the nursing home is part of a system of nursing homes, the nursing home may post aggregate financial data for all nursing homes that are part of that system.

All nursing homes will additionally be required to report the number of certain facility-acquired infections occurring among residents of the nursing home in the preceding year.

The DOH will be required to develop additional data reporting requirements for nursing homes as are necessary to improve market transparency and facilitate the DOH's ability to oversee and regulate operations in nursing homes, including, but not limited to, data related to occupancy, operating expenses and other appropriate financial metrics, and utilization and staffing data. In developing additional reporting requirements, the DOH will be required to solicit feedback from nursing homes and Medicaid managed care organizations (MCOs) concerning proposed new data metrics, methods of maximizing the efficiency of data collection and specification, minimizing duplicative data reporting, and identifying ways to consolidate, automate, or streamline the data required to be reported by State and federal agencies and MCOs.

The DOH will be required to establish centralized State protocols for nursing home communications to reduce duplicative outreach and enhance information sharing capabilities.

The DOH will further require nursing homes to post on their Internet websites a link to the dashboard developed and maintained by the DOH under the bill and designate a staff person who will be responsible for responding to questions from the public concerning the nursing home's policies, procedures, and operations. The contact information for the designated staff person will be posted on the nursing home's website.

The DOH will be required to analyze data reported by nursing homes for oversight purposes and make the results of its analysis public whenever possible, provided that nothing in the bill will require the disclosure of any information the DOH deems to be confidential, proprietary, or a trade secret. At a minimum, the DOH is to develop, make available on its Internet website, and update at least quarterly, a data dashboard that includes the data reported by each nursing home licensed in the State, including:

- (1) the nursing home's star rating issued by CMS;
- (2) complaints involving the nursing home, including substantiated complaints, open investigations, and complaints that have not been investigated or resolved;

(3) the dates and results of inspections and surveys of the nursing home by State and federal authorities, including links to any deficiencies or violations for which the nursing home was cited and to any corrective action plans in place at the nursing home;

(4) a link to the certified financial statements and CMS cost reports for the nursing home;

(5) general staffing levels at the nursing home and rates of compliance with mandatory staffing ratios, along with the average and overall number of shifts during which the nursing home was out of compliance with staffing ratios;

(6) the frequency with which antipsychotic medication was administered to residents of the nursing home;

(7) the number of pressure ulcers developed by residents;

(8) facility-acquired infections at the nursing home; and

(9) any other data the DOH determines appropriate to allow the public to make informed choices when evaluating and selecting a nursing home.

The DOH is to utilize the data dashboard to develop a performance improvement plan for all nursing homes throughout the State, as well as to identify areas in need of improvement and strategies to facilitate performance improvement in individual nursing homes.

The DOH will additionally be required to prepare and publish on its Internet website annual reports on New Jersey's nursing home system of care.

The bill additionally establishes the "Nursing Home Advisory Council" in the DOH, the purpose of which will be to advise the DOH on matters related to the oversight of nursing homes and on issues concerning nursing home residents and their families, as well as to foster communication with the public regarding nursing homes. The specific responsibilities of the advisory council will include: analyzing and reviewing the results of inspections and surveys of nursing homes, including the penalties assessed against nursing homes and the DOH's adherence to federal guidance concerning state inspections of nursing homes; receiving public comment on the results of nursing home inspections and surveys; consulting with the New Jersey Long-Term Care Ombudsman as necessary; and reviewing the data dashboard established under the bill to identify areas of concern within the nursing home industry and develop recommendations to foster improvements in quality of care, resident and staff safety, and overall performance.

The advisory council will consist of nine members, including the New Jersey Long-Term Care Ombudsman and the Assistant Commissioner for the Division of Medical Assistance and Health Services in the Department of Human Services, or their designees, who will serve ex officio; one nursing home surveyor employed by the DOH, to be named by the Commissioner of Health, who will serve ex officio; two public members, to be appointed by the Governor, with

one member representing a for-profit nursing home and one member representing a nonprofit nursing home; and four public members who are advocates for nursing home residents, with two of the public members to be appointed by the Senate President and two of the public members to be appointed by the Speaker of the General Assembly.

The public members of the advisory council are to be appointed, and the advisory council is to first organize, no later than 45 days after the effective date of the bill. Public members of the advisory council will serve for a term of five years, with staggered terms of appointment for the members first appointed. Public members will be eligible for reappointment to the advisory council.

The advisory council will meet on a quarterly basis at such times and places as are designated by the chairperson. A majority of the authorized membership will constitute a quorum for the purposes of taking official action. All meetings of the advisory council will be open to the public. Agendas, minutes, documents, and testimony from each meeting will be posted on the DOH's Internet website. The advisory council is to invite the Attorney General or a representative, the State Auditor, the State Comptroller, and a representative of the DOH to be present at each meeting.

The advisory council will be required to biannually prepare and submit a report concerning its analysis of the DOH's oversight and inspections of nursing homes, along with any recommendations for legislative or administrative action, to the Governor and the Legislature. The advisory council may provide additional recommendations to the DOH at any time upon request.

As amended by the committee, Assembly Bill No. 4478 (1R) is identical to Senate Bill No. 2759, which was also reported by the committee on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments require nursing homes to post on their Internet websites, in addition to owner-certified financial statements, the nursing home's most recent cost reports submitted to the CMS.

The committee amendments revise the requirement for nursing homes to report facility-acquired infections to the DOH to remove a requirement that facilities report the severity of any facility-acquired infections. The amendments remove a requirement that information concerning the severity of facility-acquired infections be included on the DOH's data dashboard.

The committee amendments require the DOH to update the data dashboard at least quarterly, rather than at least annually.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that annual State costs would increase by an indeterminate amount for the

Department of Health (DOH) to implement additional data reporting, regulatory, and oversight requirements pursuant to this bill.

The DOH would incur substantial additional costs to develop and implement a special focus survey program and a system of scaling actions and penalties for nursing homes with repeated violations of State and federal requirements concerning nursing home administration and operations. In order to implement these measures, the DOH would be required to hire additional staff to oversee program operations, conduct in-depth surveys, and monitor the compliance status of the State's troubled nursing homes.

The escalating fines and penalties levied on nursing homes with recurring regulatory violations will increase State revenues, but the OLS cannot estimate the magnitude of the revenue increase because the bill does not establish either the amount of the fines or the schedule on which the fines for noncompliant nursing homes will be levied.

The three nursing homes operated by the Department of Military and Veterans' Affairs (DMAVA) and nine county-operated nursing homes will incur indeterminate annual cost increases to comply with the increased operational and data reporting requirements imposed pursuant to this bill. To the extent that any of the DMAVA- or county-operated nursing homes are assessed escalating fines or enhanced penalties or sanctions, the State and certain counties would face additional costs to effect the administrative and operational changes necessary to bring these nursing homes into compliance with State and federal requirements.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 4478

with Senate Floor Amendments
(Proposed by Senator VITALE)

ADOPTED: DECEMBER 2, 2021

These Senate amendments remove from the bill provisions that would have established a special focus survey program for nursing homes with a history of repeat, chronic violations of State or federal requirements for nursing home administration and operations, as well as provisions specifying how escalating fines and adverse licensure actions would be applied to a nursing home. The amendments also remove a provision requiring the Department of Health (DOH) to establish a system to impose greater responsibility on nursing home medical directors for quality outcomes at the nursing home.

The Senate amendments replace these provisions with a requirement that a nursing home that is penalized for a subsequent F-level deficiency or higher, as outlined in federal Centers for Medicare and Medicaid Services (CMS) guidelines, in a given three-year period is to be subject to a penalty that is more severe than the penalty imposed for the previous violation. The amendments further provide that the DOH may impose additional penalties, sanctions, and corrective measures when a violation involves noncompliance with infection control requirements or results in severe adverse health consequences for a staff member or resident.

The Senate amendments revise a requirement for nursing homes to report certain facility-acquired infections to the DOH, to instead require that nursing homes: 1) participate in the National Health Care Safety Network's (NHSN) Long-term Care Facility Component; 2) complete the NHSN's long-term care facility annual facility survey; and 3) participate in the NHSN's long-term care facility monthly reporting plan, including the healthcare-associated infection reporting modules for: urinary tract infections, the laboratory-identified event module for *Clostridium difficile* (*C.diff*) infection and multidrug-resistant organisms, and prevention measures; and the monthly reporting plan for prevention process measures, including hand hygiene, gloves, and gown adherence. The amendments add a new requirement for the DOH to request from the NHSN, on a quarterly basis, information concerning the number of facility-acquired infections reported to the NHSN by New Jersey nursing homes for the purposes of making this information available to the public through the DOH's data dashboard established under the bill. The information is to include details concerning the number and type of each reportable infection occurring in each nursing home, as well as the Statewide and national averages for each type of reported infection.

The Senate amendments make a requirement for the DOH to develop additional data reporting requirements permissive, rather than mandatory, and remove a requirement that the additional data reporting facilitate market transparency; instead, the additional data reporting is to improve transparency in general. The amendments provide that, in developing additional data metrics, the DOH is to solicit feedback from, in addition to representatives of nursing homes and managed care organizations, advocacy groups for nursing home residents and their families and the New Jersey Long-Term Care Ombudsman.

The Senate amendments remove a requirement for the DOH to analyze data reported by nursing homes for oversight purposes and make certain information available to the public, and instead require the DOH to establish a dashboard with links to the sites where certain information and data relevant to nursing homes may be found. The amendments require that the dashboard be searchable by nursing home, include a separate listing for each nursing home, and include a description of the data or information available through a given link.

The Senate amendments revise a requirement for the DOH to provide information concerning nursing home staffing ratios to provide that information concerning noncompliance with mandatory staffing ratios is to be provided only to the extent feasible, and to remove a requirement to provide information concerning the number of shifts during which a nursing home was out of compliance.

The Senate amendments remove a requirement for the DOH to use the data dashboard established under the bill to develop performance improvement plans for nursing homes and to facilitate performance improvements in individual nursing homes.

The Senate amendments remove a section from the bill that would have established a Nursing Home Advisory Council to advise the DOH on matters related to the oversight of nursing homes and issues concerning nursing home residents and their families, as well as to foster communication with the public regarding nursing homes.

The Senate amendments provide the DOH with the authority to promulgate rules and regulations on an expedited basis for the purposes of implementing the bill, which expedited rules and regulations would remain in effect for up to 18 months and may thereafter be readopted, with or without amendments, pursuant to the standard procedures established under the “Administrative Procedure Act.”

The Senate amendments revise the effective date of the bill from 180 days after enactment to the first day of the 10th month after the date of enactment, except that the provision granting the DOH expedited rulemaking authority will take effect immediately upon enactment.

STATEMENT TO
[Third Reprint]
ASSEMBLY, No. 4478

with Senate Floor Amendments
(Proposed by Senator VITALE)

ADOPTED: DECEMBER 20, 2021

These Senate amendments provide that a nonprofit nursing home may meet the requirement to annually post an owner-certified financial statement on the nursing home's Internet website by posting a copy of the nursing home's most recent Internal Revenue Service Form 990.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4478

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: NOVEMBER 4, 2020

SUMMARY

- Synopsis:** Establishes additional requirements for DOH to assess sanctions and impose penalties on nursing homes; revises reporting requirements for nursing homes.
- Type of Impact:** Increase in State expenditures and revenues. Increase in county expenditures.
- Agencies Affected:** Department of Health, Department of Military and Veterans' Affairs, County-operated nursing homes.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate
County Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that State costs would increase by an indeterminate amount for the Department of Health (DOH) to implement additional data reporting, regulatory, and oversight requirements pursuant to this bill.
- The DOH would incur substantial additional costs to develop and implement a special focus survey program and a system of scaling actions and penalties for nursing homes with repeated violations of State and federal requirements concerning nursing home administration and operations. In order to implement these measures, the DOH would be required to hire additional staff to oversee program operations, conduct in-depth surveys, and monitor the compliance status of the State's troubled nursing homes.
- The escalating fines and penalties levied on nursing homes with recurring regulatory violations will increase State revenues, but the OLS cannot estimate the magnitude of the revenue increase because the bill does not establish either the amount of the fines or the schedule on which the fines for noncompliant nursing homes will be levied.

- The three nursing homes operated by the Department of Military and Veterans' Affairs (DMAVA) and nine county-operated nursing homes will incur indeterminate cost increases to comply with the increased operational and data reporting requirements imposed pursuant to this bill. To the extent that any of the DMAVA- or county-operated nursing homes are assessed escalating fines or enhanced penalties or sanctions, the State and certain counties would face additional costs to effect the administrative and operational changes necessary to bring these nursing homes into compliance with State and federal requirements.

BILL DESCRIPTION

This bill requires the DOH to establish a system of scaling actions and penalties for nursing homes for repeat violations of State and federal requirements for nursing home administration and operations. The bill also imposes various reporting requirements on nursing homes and establishes a Nursing Home Advisory Council within the DOH.

To improve the operations of those nursing homes with a history of chronic violations of State or federal requirements for nursing home administration or operations, or a recent history of noncompliance with corrective actions, the DOH is to develop and implement a special focus survey program that utilizes intensive surveys to identify whether a facility has effectively remediated the conditions underlying the violations. Any New Jersey nursing home that qualifies for inclusion in the federal Centers for Medicare and Medicaid Services' (CMS) Special Focus Facility Program, but is ultimately not selected for the CMS program, will be automatically included in the DOH special focus survey program for a period of at least 18 months.

Under the bill, the DOH is authorized to impose enhanced corrective measures, penalties and sanctions in the case of facilities with continued or repeated regulatory noncompliance, particularly in situations in which a nursing home is cited two or more times for the same violation within a six-month period, or when a facility is noncompliant with infection control requirements. These enhanced penalties include a series of escalating fines for repeated violations or multiple violations by the same nursing home, and increased fines when a nursing home violation causes severe adverse health consequences for either a facility resident or staff member. The escalating licensure actions that the DOH may take against nursing homes with chronic violations include, but are not limited to: suspending or revoking a facility's license, restricting new admissions to a nursing home, mandating the closure of a nursing home and immediate transfer of all residents to another facility, or petitioning a court of competent jurisdiction for the appointment of a receiver in accordance with State law.

To facilitate enforcement of State and federal rules and requirements for nursing home operations, the DOH is directed to request and consolidate nursing home data that are already reported to other State and federal authorities, in order to identify those facilities with consistent performance issues, ongoing compliance issues, or high numbers of substantiated complaints. The DOH is to make the consolidated data available, upon request, to other State and federal entities with jurisdiction over New Jersey nursing homes.

This bill additionally requires the DOH to review State reporting requirements for nursing homes, begin standardizing and consolidating these reporting requirements in order to reduce the administrative demands of compliance, develop updated standardized data reporting requirements, and improve the utility of the reported data and the ability to share these data across systems, including systems maintained by other State departments and agencies, county and local agencies, and federal authorities.

Pursuant to this bill, the DOH is directed to develop such additional data reporting requirements for nursing homes as are necessary to improve market transparency and facilitate the

department's ability to oversee and regulate nursing home operations, including, but not limited to, information related to occupancy, operating expenses and other appropriate financial metrics, and utilization and staffing data. In developing additional reporting requirements, the department is to solicit feedback from nursing homes and Medicaid managed care organizations concerning proposed data metrics, methods of maximizing the efficiency of data collection and specification, minimizing duplicative data reporting, and identifying ways to consolidate, automate, or streamline reported data.

Furthermore, the DOH is to develop, publish on its Internet website, and update at least annually, a data dashboard that includes data reported by each licensed nursing home in the State. The data dashboard will include: the nursing home's star rating from the federal Centers for Medicare and Medicaid Services (CMS); details concerning the number and status of complaints involving the facility; the dates and results of facility inspections and surveys conducted by the DOH, the Department of Human Services and the CMS, including any corrective action plans that are in place at the facility; a link to the website where the nursing home's certified financial statements are published; general staffing levels at the facility and rates of compliance with mandatory staffing ratios; and patient health outcomes data. The bill additionally directs the DOH to utilize this data dashboard to develop a performance improvement plan for all nursing homes in the State, as well as to identify performance areas in need of improvement and strategies to facilitate such improvement in specific nursing homes.

Finally, the bill establishes the "Nursing Home Advisory Council" within the DOH, which is to advise the department on matters concerning nursing home oversight, issues regarding nursing home residents and their families, and improved communications with the general public regarding nursing homes. The bill outlines the responsibilities of the advisory council.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill will increase State costs by an indeterminate amount due to requirements that the DOH create a special focus survey program for nursing homes with chronic regulatory violations, impose scalable penalties and sanctions on nursing homes for repeated noncompliance or multiple violations, and develop new, streamlined data collection, reporting, and sharing systems. The escalating fines and penalties levied on nursing homes with recurring regulatory violations will increase State revenues, but the OLS cannot estimate the magnitude of the revenue increase because the bill does not establish either the amount of the fines or the schedule on which the fines for noncompliant nursing homes will be levied.

Moreover, the reporting requirements and enhanced penalties established under this bill will apply to three nursing homes operated by the Department of Military and Veterans' Affairs (DMAVA) and nine nursing homes operated by Bergen (3), Middlesex (2), Atlantic (1), Cape May (1), Gloucester (1) and Passaic (1) counties. These facilities will likely incur additional expenses to comply with the data reporting requirements established in bill, and may potentially incur costs from newly enhanced fines and sanctions levied against troubled nursing homes.

The special focus survey program established under this bill will require a significant investment of DOH resources to develop and implement an intensive nursing home survey tool,

and to hire staff to manage program operations, conduct surveys, and monitor the status of those nursing homes enrolled in the program. Even if such a survey program, which appears to be broadly similar to the Special Focus Facility Program of the CMS, is available for purchase or licensing by the DOH, upfront costs for such a purchase or a licensing agreement would be substantial. However, to the extent that consistent utilization of this survey tool reduces the need for DOH staff to conduct time- and resource-intensive surveys and investigations of nursing homes, the State may realize partially offsetting savings in the out years.

This bill also requires the DOH to develop additional, enhanced sanctions for those nursing homes that are cited two or more times for the same violation within a six-month period, are non-compliant with infection control requirements, or commit a violation that causes a severe adverse health consequence for a facility resident or staff member. The OLS notes that implementation of this requirement will increase State costs due to the administrative and personnel expenses required to oversee facility compliance with enhanced sanctions and penalties, and to ensure that facility operations improve in response to these corrective measures.

Escalating fines levied on troubled nursing homes will increase State revenues, but the OLS cannot estimate the magnitude of the increase because the bill does not establish either the amount of the fines or the schedule on which such fines will be imposed. Depending upon the frequency of fines levied by the DOH, as well as the size of these monetary penalties, the revenue stream from these fines may partially offset the cost of the sanctions provision contained in this bill.

The DOH will also incur additional costs to develop new, streamlined data collection, reporting, and sharing procedures under this bill. Not only will the DOH require additional staff to manage the collection, standardization, analysis and reporting of a substantial influx of new nursing home data, but the department will also require a significant investment in health information technology to process the data, share these data with other State and federal authorities, assess nursing home health information technology needs to support facilities' ability to report and utilize the required data, and establish a publicly-facing nursing home data dashboard on the department's Internet website. State expenditures will also increase due to a requirement that the DOH utilize the data dashboard to develop a performance improvement plan for nursing homes throughout the State, as well as strategies to facilitate performance improvement.

The DOH is permitted, however, to solicit feedback from nursing homes and the State's Medicaid managed care organizations in the development of additional data reporting requirements for nursing homes to improve market transparency and expedite the department's ability to improve oversight and regulation of nursing homes. Specifically, the bill directs the DOH to request feedback concerning methods to maximize the efficiency of data collection and specification, and identify ways to consolidate, automate and streamline data reported to State and federal agencies and managed care organizations. To the extent that the DOH can consult with, and access data collection and reporting tools already developed by managed care organizations, State costs would be reduced.

Costs stemming from Nursing Home Advisory Council activities would be minimal, including expenses to produce a biannual report to the Governor and Legislature concerning DOH oversight and inspections of nursing homes and making recommendations for legislative or administrative action, and the salary and benefits for one half of one full-time employee of the DOH, who is to provide staffing and administrative support to the advisory council.

Finally, DMAVA- and county-operated nursing homes will incur additional expenses to comply with increased operational and data reporting requirements. These facilities may also face significant expenses in order to upgrade their health information technology infrastructure in order to meet data collection and reporting requirements established under the bill. To the extent that any DMAVA- or county-operated nursing homes are assessed escalating fines or enhanced

penalties or sanctions pursuant to the bill, these facilities may incur substantially higher costs to comply with State and federal requirements.

Section: Human Services

*Analyst: Anne H. Cappabianca
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 4478

**STATE OF NEW JERSEY
219th LEGISLATURE**

DATED: JANUARY 28, 2021

SUMMARY

- Synopsis:** Establishes additional requirements for DOH to assess sanctions and impose penalties on nursing homes; revises reporting requirements for nursing homes.
- Type of Impact:** Increase in State expenditures and revenues. Increase in county expenditures.
- Agencies Affected:** Department of Health, Department of Military and Veterans' Affairs, County-operated nursing homes.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate
County Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that annual State costs would increase by an indeterminate amount for the Department of Health (DOH) to implement additional data reporting, regulatory, and oversight requirements pursuant to this bill.
- The DOH would incur substantial additional costs to develop and implement a special focus survey program and a system of scaling actions and penalties for nursing homes with repeated violations of State and federal requirements concerning nursing home administration and operations. In order to implement these measures, the DOH would be required to hire additional staff to oversee program operations, conduct in-depth surveys, and monitor the compliance status of the State's troubled nursing homes.
- The escalating fines and penalties levied on nursing homes with recurring regulatory violations will increase State revenues, but the OLS cannot estimate the magnitude of the revenue increase because the bill does not establish either the amount of the fines or the schedule on which the fines for noncompliant nursing homes will be levied.

- The three nursing homes operated by the Department of Military and Veterans' Affairs (DMAVA) and nine county-operated nursing homes will incur indeterminate annual cost increases to comply with the increased operational and data reporting requirements imposed pursuant to this bill. To the extent that any of the DMAVA- or county-operated nursing homes are assessed escalating fines or enhanced penalties or sanctions, the State and certain counties would face additional costs to effect the administrative and operational changes necessary to bring these nursing homes into compliance with State and federal requirements.

BILL DESCRIPTION

This bill requires the DOH to establish a system of scaling actions and penalties for nursing homes for repeat violations of State and federal requirements for nursing home administration and operations. The bill also imposes various reporting requirements on nursing homes and establishes a Nursing Home Advisory Council within the DOH.

To improve the operations of those nursing homes with a history of chronic violations of State or federal requirements for nursing home administration or operations, or a recent history of noncompliance with corrective actions, the DOH is to develop and implement a special focus survey program that utilizes intensive surveys to identify whether a facility has effectively remediated the conditions underlying the violations. Any New Jersey nursing home that qualifies for inclusion in the federal Centers for Medicare and Medicaid Services' (CMS) Special Focus Facility Program, but is ultimately not selected for the CMS program, will be automatically included in the DOH special focus survey program for a period of at least 18 months.

Under the bill, the DOH is authorized to impose enhanced corrective measures, penalties and sanctions in the case of facilities with continued or repeated regulatory noncompliance, particularly in situations in which a nursing home is cited two or more times for the same violation within a six-month period, or when a facility is noncompliant with infection control requirements. These enhanced penalties include a series of escalating fines for repeated violations or multiple violations by the same nursing home, and increased fines when a nursing home violation causes severe adverse health consequences for either a facility resident or staff member. The escalating licensure actions that the DOH may take against nursing homes with chronic violations include, but are not limited to: suspending or revoking a facility's license, restricting new admissions to a nursing home, mandating the closure of a nursing home and immediate transfer of all residents to another facility, or petitioning a court of competent jurisdiction for the appointment of a receiver in accordance with State law.

To facilitate enforcement of State and federal rules and requirements for nursing home operations, the DOH is directed to request and consolidate nursing home data that are already reported to other State and federal authorities, in order to identify those facilities with consistent performance issues, ongoing compliance issues, or high numbers of substantiated complaints. The DOH is to make the consolidated data available, upon request, to other State and federal entities with jurisdiction over New Jersey nursing homes.

This bill additionally requires the DOH to review State reporting requirements for nursing homes, begin standardizing and consolidating these reporting requirements in order to reduce the administrative demands of compliance, develop updated standardized data reporting requirements, and improve the utility of the reported data and the ability to share these data across systems, including systems maintained by other State departments and agencies, county and local agencies, and federal authorities.

Pursuant to this bill, the DOH is directed to develop such additional data reporting requirements for nursing homes as are necessary to improve market transparency and facilitate the department's ability to oversee and regulate nursing home operations, including, but not limited

to, information related to occupancy, operating expenses and other appropriate financial metrics, and utilization and staffing data. In developing additional reporting requirements, the department is to solicit feedback from nursing homes and Medicaid managed care organizations concerning proposed data metrics, methods of maximizing the efficiency of data collection and specification, minimizing duplicative data reporting, and identifying ways to consolidate, automate, or streamline reported data.

Furthermore, the DOH is to develop, publish on its Internet website, and update at least quarterly, a data dashboard that includes data reported by each licensed nursing home in the State. The data dashboard will include: the nursing home's star rating from the federal Centers for Medicare and Medicaid Services (CMS); details concerning the number and status of complaints involving the facility; the dates and results of facility inspections and surveys conducted by the DOH, the Department of Human Services and the CMS, including any corrective action plans that are in place at the facility; a link to the website where the nursing home's certified financial statements and cost reports, as submitted to CMS, are published; general staffing levels at the facility and rates of compliance with mandatory staffing ratios; and patient health outcomes data. The bill additionally directs the DOH to utilize this data dashboard to develop a performance improvement plan for all nursing homes in the State, as well as to identify performance areas in need of improvement and strategies to facilitate such improvement in specific nursing homes.

Finally, the bill establishes the "Nursing Home Advisory Council" within the DOH, which is to advise the department on matters concerning nursing home oversight, issues regarding nursing home residents and their families, and improved communications with the general public regarding nursing homes. The bill outlines the responsibilities of the advisory council.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill will increase annual State costs by an indeterminate amount due to requirements that the DOH create a special focus survey program for nursing homes with chronic regulatory violations, impose scalable penalties and sanctions on nursing homes for repeated noncompliance or multiple violations, and develop new, streamlined data collection, reporting, and sharing systems. The escalating fines and penalties levied on nursing homes with recurring regulatory violations will increase State revenues, but the OLS cannot estimate the magnitude of the revenue increase because the bill does not establish either the amount of the fines or the schedule on which the fines for noncompliant nursing homes will be levied.

Moreover, the reporting requirements and enhanced penalties established under this bill will apply to three nursing homes operated by the Department of Military and Veterans' Affairs (DMAVA) and nine nursing homes operated by Bergen (3), Middlesex (2), Atlantic (1), Cape May (1), Gloucester (1) and Passaic (1) counties. These facilities will likely incur additional expenses to comply with the data reporting requirements established in bill, and may potentially incur costs from newly enhanced fines and sanctions levied against troubled nursing homes.

The special focus survey program established under this bill will require a significant investment of DOH resources to develop and implement an intensive nursing home survey tool, and to hire staff to manage program operations, conduct surveys, and monitor the status of those nursing homes enrolled in the program. Even if such a survey program, which appears to be

broadly similar to the Special Focus Facility Program of the CMS, is available for purchase or licensing by the DOH, upfront costs for such a purchase or a licensing agreement would be substantial. However, to the extent that consistent utilization of this survey tool reduces the need for DOH staff to conduct time- and resource-intensive surveys and investigations of nursing homes, the State may realize partially offsetting savings in the out years.

This bill also requires the DOH to develop additional, enhanced sanctions for those nursing homes that are cited two or more times for the same violation within a six-month period, are non-compliant with infection control requirements, or commit a violation that causes a severe adverse health consequence for a facility resident or staff member. The OLS notes that implementation of this requirement will increase State costs due to the administrative and personnel expenses required to oversee facility compliance with enhanced sanctions and penalties, and to ensure that facility operations improve in response to these corrective measures.

Escalating fines levied on troubled nursing homes will increase State revenues, but the OLS cannot estimate the magnitude of the increase because the bill does not establish either the amount of the fines or the schedule on which such fines will be imposed. Depending upon the frequency of fines levied by the DOH, as well as the size of these monetary penalties, the revenue stream from these fines may partially offset the cost of the sanctions provision contained in this bill.

The DOH will also incur additional costs to develop new, streamlined data collection, reporting, and sharing procedures under this bill. Not only will the DOH require additional staff to manage the collection, standardization, analysis and reporting of a substantial influx of new nursing home data, but the department will also require a significant investment in health information technology to process the data, share these data with other State and federal authorities, assess nursing home health information technology needs to support facilities' ability to report and utilize the required data, and establish a publicly-facing nursing home data dashboard on the department's Internet website, which is to be updated at least on a quarterly basis. State expenditures will also increase due to a requirement that the DOH utilize the data dashboard to develop a performance improvement plan for nursing homes throughout the State, as well as strategies to facilitate performance improvement.

The DOH is permitted, however, to solicit feedback from nursing homes and the State's Medicaid managed care organizations in the development of additional data reporting requirements for nursing homes to improve market transparency and expedite the department's ability to improve oversight and regulation of nursing homes. Specifically, the bill directs the DOH to request feedback concerning methods to maximize the efficiency of data collection and specification, and identify ways to consolidate, automate and streamline data reported to State and federal agencies and managed care organizations. To the extent that the DOH can consult with, and access data collection and reporting tools already developed by managed care organizations, State costs would be reduced.

Costs stemming from Nursing Home Advisory Council activities would be minimal, including expenses to produce a biannual report to the Governor and Legislature concerning DOH oversight and inspections of nursing homes and making recommendations for legislative or administrative action, and the salary and benefits for one half of one full-time employee of the DOH, who is to provide staffing and administrative support to the advisory council.

Finally, DMAVA- and county-operated nursing homes will incur additional expenses to comply with increased operational and data reporting requirements. These facilities may also face significant expenses in order to upgrade their health information technology infrastructure in order to meet data collection and reporting requirements established under the bill. To the extent that any DMAVA- or county-operated nursing homes are assessed escalating fines or enhanced penalties or sanctions pursuant to the bill, these facilities may incur substantially higher costs to comply with State and federal requirements.

Section: Human Services

*Analyst: Anne H. Cappabianca
Assistant Fiscal Analyst*

*Approved: Thomas Koenig
Assistant Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

ASSEMBLY, No. 4478

**STATE OF NEW JERSEY
219th LEGISLATURE**

DATED: JANUARY 11, 2022

SUMMARY

- Synopsis:** Establishes additional requirements for DOH to assess sanctions and impose penalties on nursing homes; revises reporting requirements for nursing homes.
- Type of Impact:** Annual increase in State expenditures and revenues; annual increase in county expenditures.
- Agencies Affected:** Department of Health, Department of Military and Veterans' Affairs, County-operated nursing homes.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate
County Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that annual State costs would increase by an indeterminate amount for the Department of Health (DOH) to implement additional data reporting, regulatory, and oversight requirements pursuant to this bill.
- The penalties levied on nursing homes with recurring regulatory violations.
- will increase State revenues, but the OLS cannot estimate the magnitude of the revenue increase because the bill does not establish either the amount of the penalty or the schedule on which the penalty for noncompliant nursing homes will be levied.
- The three nursing homes operated by the Department of Military and Veterans' Affairs (DMAVA) and nine county-operated nursing homes will incur indeterminate cost increases to comply with the increased operational and data reporting requirements imposed pursuant to this bill. To the extent that any of the DMAVA- or county-operated nursing homes are assessed penalties under the bill, the State and certain counties would face additional costs to effect the

administrative and operational changes necessary to bring these nursing homes into compliance with State and federal requirements.

BILL DESCRIPTION

This bill establishes additional requirements for DOH to assess sanctions and impose penalties on nursing homes for repeat violations of State and federal requirements for nursing home administration and operations. The bill also imposes various reporting requirements on nursing homes and the department.

Under the bill, a nursing home cited for the same or a substantially similar F-level deficiency or higher, as outlined in federal Centers for Medicare and Medicaid Services (CMS) guidelines, in a given three-year period is to be subject to a penalty that is more severe than the penalty imposed for the previous violation. The department may impose additional penalties, sanctions, or corrective measures pursuant to regulation when such deficiencies or violations involve noncompliance with infection control requirements or result in severe adverse health consequences for a resident or staff member of the nursing home.

To facilitate enforcement of State and federal rules and requirements for nursing home operations, the DOH is directed to request and consolidate nursing home data that are already reported to other State and federal authorities, in order to identify those facilities with consistent performance issues, ongoing compliance issues, or high numbers of substantiated complaints. The DOH is to make the consolidated data available, upon request, to other State and federal entities with jurisdiction over New Jersey nursing homes.

This bill additionally requires the DOH to review State reporting requirements for nursing homes, begin standardizing and consolidating these reporting requirements in order to reduce the administrative demands of compliance, develop updated standardized data reporting requirements, and improve the utility of the reported data and the ability to share these data across systems, including, as appropriate, systems maintained by other State departments and agencies, county and local agencies, and federal authorities.

The DOH is directed to develop such additional data reporting requirements for nursing homes as are necessary to improve transparency and facilitate the department's ability to oversee and regulate nursing home operations, including information related to occupancy, operating expenses and other appropriate financial metrics, and utilization and staffing data. In developing additional reporting requirements, the department is to solicit feedback from nursing homes, advocacy groups for nursing home residents and their families, the New Jersey Long-Term Care Ombudsman, and Medicaid managed care organizations concerning proposed data metrics, methods of maximizing the efficiency of data collection and specification, minimizing duplicative data reporting, and identifying ways to consolidate, automate, or streamline reported data.

Furthermore, the DOH is to develop and publish on its website, and update at least quarterly, a data dashboard that provides a separate page or listing for each nursing home licensed in the State with links to the sites where information and data relevant to the nursing home may be found, as well as a description of the data and information that is accessible through each link. The data dashboard is to be searchable by nursing home.

The bill additionally directs the DOH to request from the National Healthcare Safety Network, on a quarterly basis, data concerning the number of infections reported to the network by New Jersey nursing homes; make the data available on the department's website; and update the data at least quarterly using the most current data obtained from the National Healthcare Safety Network. The department shall additionally provide on its website data concerning the Statewide and national averages for each type of reported infection in nursing homes.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill will increase annual State costs by an indeterminate amount due to requirements that the DOH impose penalties and sanctions on nursing homes for repeated noncompliance or multiple violations, and develop new, streamlined data collection, reporting, and sharing systems. The penalties levied on nursing homes with recurring regulatory violations will increase State revenues, but the OLS cannot estimate the magnitude of the revenue increase because the bill does not establish either the amount of the penalties or the schedule on which the penalties for noncompliant nursing homes will be levied.

Moreover, the reporting requirements and penalties established under this bill will apply to three nursing homes operated by the Department of Military and Veterans' Affairs (DMAVA) and nine nursing homes operated by Bergen (3), Middlesex (2), Atlantic (1), Cape May (1), Gloucester (1) and Passaic (1) counties. These facilities will likely incur additional expenses to comply with the data reporting requirements established in bill, and may potentially incur costs from penalties levied against troubled nursing homes.

This bill also provides that a nursing home cited for the same or a substantially similar F-level deficiency or higher, as outlined in federal CMS guidelines, in a given three-year period is to be subject to a penalty that is more severe than the penalty imposed for the previous violation. The OLS notes that implementation of this requirement will increase State costs due to the administrative and personnel expenses required to oversee facility compliance with enhanced penalties, and to ensure that facility operations improve in response to these corrective measures.

Penalties levied on troubled nursing homes will increase State revenues, but the OLS cannot estimate the magnitude of the increase because the bill does not establish either the amount of the penalties or the schedule on which such penalties will be imposed. Depending upon the frequency of penalties levied by the DOH, as well as the size of these monetary penalties, the revenue stream from these fines may partially offset the cost of the sanctions provision contained in this bill.

The DOH will also incur additional costs to develop new, streamlined data collection, reporting, and sharing procedures under this bill. Not only will the DOH require additional staff hours to manage the collection, standardization, analysis and reporting of a substantial influx of new nursing home data, but the department will also require a significant investment in health information technology to process the data, share these data with other State and federal authorities, assess nursing home health information technology needs to support facilities' ability to report and utilize the required data, and establish a publicly-facing nursing home data dashboard on the department's website, which is to be updated at least on a quarterly basis.

The DOH is permitted, however, to solicit feedback from nursing homes, advocacy groups for nursing home residents and their families, the New Jersey Long-Term Care Ombudsman, and the State's Medicaid managed care organizations in the development of additional data reporting requirements for nursing homes to improve transparency and expedite the department's ability to improve oversight and regulation of nursing homes. To the extent that the DOH can consult with, and access data collection and reporting tools already developed by managed care organizations, State costs would be reduced.

Finally, DMAVA- and county-operated nursing homes will incur additional expenses to comply with increased operational and data reporting requirements. These facilities may also face

significant expenses in order to upgrade their health information technology infrastructure in order to meet data collection and reporting requirements established under the bill. To the extent that any DMAVA- or county-operated nursing homes are assessed escalating fines or enhanced penalties or sanctions pursuant to the bill, these facilities may incur substantially higher costs to comply with State and federal requirements.

Section: Human Services

*Analyst: Sarah Schmidt
Senior Research Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2759

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JULY 30, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Co-Sponsored by:

Senators Pou and Singleton

SYNOPSIS

Establishes additional requirements for DOH to assess sanctions and impose penalties on long-term care facilities; revises reporting requirements for facilities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/21/2021)

1 AN ACT concerning long-term care facilities and supplementing
2 Title 26 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. No later than 60 days after the effective date of this act, the
8 Department of Health shall develop a system of scaling actions and
9 penalties for repeat violations of State and federal requirements for
10 long-term care facility administration and operations, which actions
11 and penalties shall include:

12 a. Conducting a licensure survey of a long-term care facility
13 with three or more violations in a single year at least once every
14 two years for the next four years, or at more frequent intervals for a
15 period longer than four years, if circumstances warrant greater or
16 more frequent oversight; and

17 b Assessing enhanced sanctions and other penalties for
18 continued or repeat noncompliance with department regulations,
19 particularly when the facility is cited multiple times for the same
20 violation or when violations involve noncompliance with infection
21 control requirements, which enhanced sanctions and penalties shall
22 include:

23 (1) a series of escalating fines for repeated violations or multiple
24 violations by the same facility, as well as increased fines when a
25 violation results in severe adverse health consequences for a
26 resident or staff member of the facility; and

27 (2) a series of escalating licensure actions for repeated
28 violations or multiple violations by the same facility, particularly in
29 cases where a violation results in severe adverse health
30 consequences for a resident or staff member at the facility, which
31 licensure actions shall include: suspending, terminating, or
32 revoking the facility's license; restricting new admissions to the
33 facility; requiring the transfer of residents to another facility; or, in
34 the case of a nursing home, petitioning a court of competent
35 jurisdiction for appointment of a receiver in accordance with the
36 provisions of P.L.1977, c.238 (C.26:2H-36 et seq.).

37 c. The department shall evaluate staffing levels and
38 competency by resident acuity and complexity, and establish a
39 system to impose greater responsibility on each long-term care
40 facility's medical director for quality outcomes at the facility,
41 including imposing specific penalties or sanctions against the
42 medical director for repeated failure to produce improvements in
43 quality outcomes at the facility.

44

45 2. To facilitate enforcement of department rules and
46 requirements concerning long-term care facility operations, no later
47 than 60 days after the effective date of this act, the department shall
48 request and consolidate data concerning long-term care facilities

1 reported to other State and federal authorities, including the federal
2 Centers for Medicare and Medicaid Services, the Department of
3 Human Services, Medicaid managed care plans, and the Long-Term
4 Care Ombudsman, in order to identify long-term care facilities with
5 consistent or repeated performance issues, ongoing compliance
6 issues, or high numbers of substantiated complaints. The
7 department shall make the consolidated data collected under this
8 subsection available upon request to other State and federal entities
9 having jurisdiction over long-term care facilities in the State.

10

11 3. a. No later than 60 days after the effective date of this act,
12 the department shall undertake a review of reporting requirements
13 for long-term care facilities and shall take steps to standardize and
14 consolidate the reporting requirements for the purpose of: reducing
15 the administrative demand on the facilities of complying with
16 reporting requirements; developing updated standardized data
17 reporting requirements; and improving the utility of the reported
18 data and the ability to share the data across systems, including
19 systems maintained by other State departments and agencies,
20 county and local agencies, and federal authorities. The
21 department's review shall include:

22 (1) identifying and eliminating duplicative reporting;

23 (2) establishing standardized formats, requirements, protocols,
24 and systems for data reporting, which may include requiring
25 facilities to report data in machine-readable formats to facilitate the
26 processing and analysis of reported data;

27 (3) establishing a centralized, cross-agency workgroup to
28 monitor long-term care facility reporting;

29 (4) assessing State health information technology needs to
30 support technology-enabled and data-driven regulatory oversight
31 across State departments and agencies, anticipate potential uses for
32 the enhanced technologies and systems, enable systems to readily
33 accept and analyze additional data metrics required pursuant to
34 subsection b. of this section, and identify opportunities to centralize
35 and modernize State health data infrastructure, processes, and
36 analytic capabilities;

37 (5) assessing long-term care facility health information
38 technology needs to support population health management,
39 interoperability, and modernized reporting requirements; and

40 (6) identifying and applying for federal funding to support
41 health information technology infrastructure development.

42 b. (1) The department shall require all long-term care facilities
43 to file with the department monthly and quarterly unaudited
44 financial information, quarterly unaudited financial statements,
45 annual audited financial statements, and such other financial
46 information as the department may request. The information and
47 statements reported by facilities pursuant to this paragraph shall be

1 posted on the department's Internet website and updated as the
2 information or statements become available.

3 (2) The department shall require all long-term care facilities to
4 annually report to the department the number and severity of
5 facility-acquired infections occurring among residents of the long-
6 term care facility in the preceding year involving:

7 (a) Methicillin-resistant *Staphylococcus aureus* (MRSA);

8 (b) *Clostridium difficile* (C.Diff);

9 (c) Surgical Site Infections After Colon Surgery (SSi-Colon);

10 (d) Central Line-Associated Bloodstream Infections (CLABSI);

11 (e) Catheter-Associated Urinary Tract Infections (CAUTI); and

12 (f) any other facility-acquired infection for which the
13 department requires annual reporting pursuant to regulations
14 adopted by the Commissioner of Health.

15 c. The department shall develop additional data reporting
16 requirements for long-term care facilities as are necessary to
17 improve market transparency and facilitate the department's ability
18 to oversee and regulate operations in long-term care facilities,
19 including, but not limited to, data related to occupancy, operating
20 expenses and other appropriate financial metrics, and utilization and
21 staffing data. In developing additional reporting requirements
22 pursuant to this subsection, the department shall solicit feedback
23 from long-term care facilities and managed care plans concerning
24 proposed new data metrics, methods of maximizing the efficiency
25 of data collection and specification, minimizing duplicative data
26 reporting, and identifying ways to consolidate, automate, or
27 streamline the data required to be reported by State and federal
28 agencies and managed care plans.

29 d. No later than 30 days after the effective date of this act, the
30 department shall establish centralized State protocols for long-term
31 care facility communications to reduce duplicative outreach and
32 enhance information sharing capabilities.

33 e. The department shall require long-term care facilities to:

34 (1) post on their Internet websites any policies or plans required
35 to be in place at the facility pursuant to State law; and

36 (2) have a dedicated staff person available at all times to
37 respond to questions from the public concerning the policies and
38 plans required to be posted on the facility's Internet website under
39 paragraph (1) of this subsection. The contact information for the
40 facility's designated staff person shall be posted on the facility's
41 Internet website.

42 f. The department shall analyze data reported by long-term
43 care facilities for oversight purposes and shall make the results of
44 its analysis public whenever possible. At a minimum, the
45 department shall:

46 (1) develop, make available on its Internet website, and update
47 at least monthly, a data dashboard that includes the data reported by
48 each long-term care facility licensed in the State, including:

- 1 (a) an overall performance score;
- 2 (b) the total number of complaints involving the facility, the
3 number and nature of substantiated complaints involving the
4 facility, the number of open investigations of complaints involving
5 facility, and the total number of outstanding complaints involving
6 the facility that have not been investigated or resolved;
- 7 (c) the facility's star rating issued by the federal Centers for
8 Medicare and Medicaid Services;
- 9 (d) the dates and results of inspections of the facility by the
10 Department of Health, the Department of Human Services, and the
11 federal Centers for Medicare and Medicaid Services, including links
12 to any deficiencies or violations for which the facility was cited and
13 to any corrective action plans in place at the facility;
- 14 (e) a breakdown of any costs and financial data reported by the
15 facility;
- 16 (f) general staffing levels at the facility and rates of compliance
17 with mandatory staffing ratios, along with the average and overall
18 number of shifts during which the facility was out of compliance
19 with staffing ratios;
- 20 (g) the frequency with which antipsychotic medication was
21 administered to facility residents;
- 22 (h) the number of residents who developed a pressure ulcer,
23 including the number of residents who developed multiple pressure
24 ulcers;
- 25 (i) the number of facility-acquired infections at the facility as
26 reported pursuant to paragraph (2) of subsection b. of this section,
27 including details concerning the relative severity of the facility-
28 acquired infections; and
- 29 (j) such other data as the department determines appropriate to
30 allow the public to make informed choices when evaluating and
31 selecting a long-term care facility; and
- 32 (2) prepare and publish on its Internet website annual reports on
33 New Jersey's long-term care system of care.

34
35 4. a. There is established in the Department of Health the
36 "Long-Term Care Facility Advisory Council." The purpose of the
37 council shall be to advise the department on matters related to the
38 oversight of long-term care facilities and on issues concerning long-
39 term care facility residents and their families, as well as to foster
40 communication with the public regarding long-term care facilities.
41 The responsibilities of the advisory council shall include:

- 42 (1) analyzing and reviewing the results of inspections of long-
43 term care facility conducted by the department, including the
44 penalties assessed against long-term care facilities and the
45 department's adherence to federal guidance concerning state
46 inspections of long-term care facilities;
- 47 (2) receiving public comment on the results of long-term care
48 facility inspections; and

- 1 (3) consulting with the New Jersey Long-Term Care
2 Ombudsman as necessary.
- 3 b. The advisory council shall consist of seven members, as
4 follows:
- 5 (1) the New Jersey Long-Term Care Ombudsman and the
6 Assistant Commissioner for the Division of Medical Assistance and
7 Health Services in the Department of Human Services, or their
8 designees, who shall serve ex officio;
- 9 (2) one public member, to be appointed by the Governor, who
10 shall be a representative of the long-term care facility industry; and
- 11 (3) four public members who are advocates for residents of
12 long-term care facilities, with two of the public members to be
13 appointed by the Senate President and two of the public members to
14 be appointed by the Speaker of the General Assembly.
- 15 c. The public members of the advisory council shall be
16 appointed, and the advisory council shall first organize, no later
17 than 45 days after the effective date of this act. Upon organizing,
18 the advisory council shall select a chairperson and a vice-
19 chairperson from among its members. The chairperson shall
20 appoint a secretary to the advisory council, who need not be a
21 member of the advisory council.
- 22 d. Public members of the advisory council shall serve for a
23 term of five years, except that, of the members first appointed, one
24 shall serve for a term of three years, two shall serve for a term of
25 four years, and two shall serve for a term of five years. Vacancies
26 in the membership shall be filled in the same manner in which the
27 original appointments were made. Public members shall be eligible
28 for reappointment to the advisory council.
- 29 e. The advisory council shall meet on a quarterly basis at such
30 times and places as shall be designated by the chairperson. A
31 majority of the authorized membership shall constitute a quorum for
32 the purposes of the advisory council taking official action. All
33 meetings of the advisory council shall be open to the public.
34 Agendas, minutes, documents, and testimony from all meeting shall
35 be posted on the Internet website of the Department of Health. The
36 advisory council shall invite the Attorney General or a
37 representative of the Office of the Attorney General, the State
38 Auditor, the State Comptroller, and a representative of the
39 Department of Health to be present at each meeting.
- 40 f. The members of the advisory council shall serve without
41 compensation, but shall be eligible for reimbursement for necessary
42 and reasonable expenses incurred in the performance of their duties
43 on the council, within the limits of funds appropriated or otherwise
44 made available to the advisory council for its purposes.
- 45 g. The advisory council shall be entitled to receive assistance
46 and services from any State, county, or municipal department,
47 board, commission, or agency, as may be available to it for its

1 purposes. The Department of Health shall provide staff and
2 administrative support to the advisory council.

3 h. The advisory council shall biannually prepare and submit a
4 report concerning its analysis of the Department of Health's
5 oversight and inspections of long-term care facilities along with any
6 recommendations for legislative or administrative action to the
7 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
8 19.1), to the Legislature. The advisory council may provide
9 additional recommendations to the Department of Health at any
10 time upon request by the department.

11

12 5. This act shall take effect immediately.

13

14

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STATEMENT

16

17 This bill requires the Department of Health (DOH) to establish,
18 no later than 60 days after the effective date of the bill, a scaling
19 system of actions and penalties for long-term care facilities in
20 violation of State and federal requirements for long-term care
21 facility operation, establishes various requirements concerning
22 reporting requirements for long-term care facilities, and establishes
23 the Long-Term Care Facility Advisory Council.

24 The system of scaling actions and penalties to be developed by
25 the DOH will include: mandatory licensure surveys of long-term
26 care facilities with three or more violations in a single year, with at
27 least one survey to be completed every two years for the succeeding
28 four years unless more frequent surveys are warranted; and
29 assessing enhanced sanctions and other penalties for continued or
30 repeat noncompliance with DOH regulations, particularly when the
31 facility is cited multiple times for the same violation or when
32 violations involve noncompliance with infection control
33 requirements.

34 The enhanced sanctions and penalties will include a series of
35 escalating fines for severe violations or multiple violations by the
36 same facility, as well as a series of escalating licensure actions for
37 repeated violations or multiple violations by the same facility.
38 These licensure actions may include suspending, terminating, or
39 revoking the facility's license, restricting new admissions to the
40 facility, requiring the transfer of residents to another facility, or, in
41 the case of a nursing home, petitioning a court of competent
42 jurisdiction for the appointment of a receiver.

43 No later than 60 days after the effective date of the bill, the DOH
44 will be required to evaluate staffing levels and competency by
45 resident acuity and complexity and establish a system to impose
46 greater responsibility on each long-term care facility's medical
47 director for quality outcomes at the facility, including imposing
48 specific penalties or sanctions against the medical director for

1 repeated failure to produce improvements in quality outcomes at the
2 facility.

3 To facilitate enforcement of the rules and requirements for long-
4 term care facility operations, no later than 60 days after the
5 effective date of the bill, the DOH is to request and consolidate data
6 concerning long-term care facilities reported to other State and
7 federal authorities in order to identify long-term care facilities with
8 consistent or repeated performance issues, ongoing compliance
9 issues, or high numbers of substantiated complaints. The DOH is to
10 make the consolidated data available upon request to other State
11 and federal entities having jurisdiction over long-term care facilities
12 in New Jersey.

13 The bill additionally requires the DOH, within 60 days after the
14 effective date of the bill, to undertake a review of reporting
15 requirements for long-term care facilities and take steps to
16 standardize and consolidate the reporting requirements for the
17 purpose of reducing the administrative demand on the facilities of
18 complying with reporting requirements, developing updated
19 standardized data reporting requirements, and improving the utility
20 of the reported data and the ability to share the data across systems,
21 including systems maintained by other State departments and
22 agencies, county and local agencies, and federal authorities. The
23 DOH's review is to include:

- 24 (1) identifying and eliminating duplicative reporting;
- 25 (2) establishing standardized formats, requirements, protocols,
26 and systems for data reporting, which may include requiring
27 facilities to report data in machine-readable formats;
- 28 (3) establishing a centralized, cross-agency workgroup to
29 monitor long-term care facility reporting;
- 30 (4) assessing State health information technology needs to
31 support technology-enabled and data-driven regulatory oversight
32 across State departments and agencies, anticipate potential uses for
33 the enhanced technologies and systems, enable systems to readily
34 accept and analyze additional data metrics, and identify
35 opportunities to centralize and modernize State health data
36 infrastructure, processes, and analytic capabilities;
- 37 (5) assessing long-term care facility health information
38 technology needs to support population health management,
39 interoperability, and modernized reporting requirements; and
- 40 (6) identifying and applying for federal funding to support
41 health information technology infrastructure development.

42 The bill requires all long-term care facilities to file with the
43 DOH monthly and quarterly unaudited financial information,
44 quarterly unaudited financial statements, annual audited financial
45 statements, and such other financial information as the department
46 may request. The information and statements will be posted on the
47 department's Internet website and updated as they become
48 available.

1 The bill additionally requires all long-term care facilities to
2 annually report to the DOH the number and severity of facility-
3 acquired infections occurring among residents of the long-term care
4 facility in the preceding year involving: Methicillin-resistant
5 *Staphylococcus aureus* (MRSA); *Clostrum difficile* (C.Diff);
6 Surgical Site Infections After Colon Surgery (SSi-Colon); Central
7 Line-Associated Bloodstream Infections (CLABSI); Catheter-
8 Associated Urinary Tract Infections (CAUTI); and any other
9 facility-acquired infection for which the DOH requires annual
10 reporting by regulation.

11 The DOH will be required to develop additional data reporting
12 requirements for long-term care facilities as are necessary to
13 improve market transparency and facilitate the department's ability
14 to oversee and regulate operations in long-term care facilities,
15 including, but not limited to, data related to occupancy, operating
16 expenses and other appropriate financial metrics, and utilization and
17 staffing data. In developing additional reporting requirements, the
18 department is to solicit feedback from long-term care facilities and
19 managed care plans concerning proposed new data metrics, methods
20 of maximizing the efficiency of data collection and specification,
21 minimizing duplicative data reporting, and identifying ways to
22 consolidate, automate, or streamline reported data.

23 The DOH will also be required to establish, no later than 30 days
24 after the effective date of the bill, centralized State protocols for
25 long-term care facility communications to reduce duplicative
26 outreach and enhance information sharing capabilities.

27 Long-term care facilities will be required to post on their Internet
28 websites any policies or plans required to be in place at the facility
29 pursuant to State law and have a dedicated staff person available at
30 all times to respond to questions from the public concerning the
31 policies and plans required to be posted on the facility's Internet
32 website.

33 The DOH will be required to analyze data reported by long-term
34 care facilities for oversight purposes and make the results of its
35 analysis public whenever possible. At a minimum, the DOH will be
36 required to develop, make available on its Internet website, and
37 update at least monthly, a data dashboard that includes the data
38 reported by each long-term care facility licensed in the State. The
39 data dashboard will include: an overall performance score; details
40 concerning the number and status of complaints involving the
41 facility; the facility's star rating issued by the federal Centers for
42 Medicare and Medicaid Services (CMS); the dates and results of
43 inspections of the facility by the DOH, the Department of Human
44 Services, and CMS, including links to any deficiencies or violations
45 for which the facility was cited and to any corrective action plans in
46 place at the facility; a breakdown of any costs and financial data
47 reported by the facility; general staffing levels at the facility and
48 rates of compliance with mandatory staffing ratios; the frequency

1 with which antipsychotic medication was administered to facility
2 residents; information concerning pressure ulcers and facility-
3 acquired infections; and any other data required by the DOH. The
4 DOH will additionally be required to prepare and publish on its
5 Internet website annual reports on New Jersey's long-term care
6 system of care.

7 The bill establishes in the DOH the "Long-Term Care Facility
8 Advisory Council." The purpose of the council will be to advise the
9 DOH on matters related to the oversight of long-term care facilities
10 and on issues concerning long-term care facility residents and their
11 families, as well as to foster communication with the public
12 regarding long-term care facilities. The responsibilities of the
13 advisory council will include:

14 (1) analyzing and reviewing the results of long-term care facility
15 inspection conducted by the DOH, including the penalties assessed
16 against long-term care facilities and the department's adherence to
17 federal guidance concerning state inspections of long-term care
18 facilities;

19 (2) receiving public comment on the results of long-term care
20 facility inspections; and

21 (3) consulting with the New Jersey Long-Term Care
22 Ombudsman as necessary.

23 The advisory council will consist of seven members, including:
24 the New Jersey Long-Term Care Ombudsman and the Assistant
25 Commissioner for the Division of Medical Assistance and Health
26 Services in the Department of Human Services, or their designees,
27 who will serve ex officio; one public member, to be appointed by
28 the Governor, who is to be a representative of the long-term care
29 facility industry; and four public members who are advocates for
30 residents of long-term care facilities, with two of the public
31 members to be appointed by the Senate President and two of the
32 public members to be appointed by the Speaker of the General
33 Assembly.

34 The public members of the advisory council are to be appointed,
35 and the advisory council is to organize, no later than 45 days after
36 the effective date of the bill.

37 The advisory council will meet on a quarterly basis at times and
38 places as may be designated by the chairperson. All meetings of the
39 advisory council will be open to the public, and agendas, minutes,
40 documents, and testimony from all meeting will be posted on the
41 DOH's Internet website. The advisory council will be required to
42 invite the Attorney General or a representative of the Office of the
43 Attorney General, the State Auditor, the State Comptroller, and a
44 representative of the SOH to be present at each meeting.

45 The advisory council will be required to prepare and submit
46 biannual reports concerning its analysis of the DOH's oversight and
47 inspections of long-term care facilities along with any
48 recommendations for legislative or administrative action to the

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- 1 Governor and to the Legislature. The advisory council will be
- 2 authorized to provide additional recommendations to the DOH at
- 3 any time upon request.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 2759

STATE OF NEW JERSEY

DATED: OCTOBER 8, 2020

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 2759.

This bill requires the Department of Health (DOH) to establish, no later than 60 days after the effective date of the bill, a scaling system of actions and penalties for long-term care facilities in violation of State and federal requirements for long-term care facility operation, establishes various requirements concerning reporting requirements for long-term care facilities, and establishes the Long-Term Care Facility Advisory Council.

The system of scaling actions and penalties to be developed by the DOH will include: mandatory licensure surveys of long-term care facilities with three or more violations in a single year, with at least one survey to be completed every two years for the succeeding four years unless more frequent surveys are warranted; and assessing enhanced sanctions and other penalties for continued or repeat noncompliance with DOH regulations, particularly when the facility is cited multiple times for the same violation or when violations involve noncompliance with infection control requirements.

The enhanced sanctions and penalties will include a series of escalating fines for severe violations or multiple violations by the same facility, as well as a series of escalating licensure actions for repeated violations or multiple violations by the same facility. These licensure actions may include suspending, terminating, or revoking the facility's license, restricting new admissions to the facility, requiring the transfer of residents to another facility, or, in the case of a nursing home, petitioning a court of competent jurisdiction for the appointment of a receiver.

No later than 60 days after the effective date of the bill, the DOH will be required to evaluate staffing levels and competency by resident acuity and complexity and establish a system to impose greater responsibility on each long-term care facility's medical director for quality outcomes at the facility, including imposing specific penalties or sanctions against the medical director for repeated failure to produce improvements in quality outcomes at the facility.

To facilitate enforcement of the rules and requirements for long-term care facility operations, no later than 60 days after the effective

date of the bill, the DOH is to request and consolidate data concerning long-term care facilities reported to other State and federal authorities in order to identify long-term care facilities with consistent or repeated performance issues, ongoing compliance issues, or high numbers of substantiated complaints. The DOH is to make the consolidated data available upon request to other State and federal entities having jurisdiction over long-term care facilities in New Jersey.

The bill additionally requires the DOH, within 60 days after the effective date of the bill, to undertake a review of reporting requirements for long-term care facilities and take steps to standardize and consolidate the reporting requirements for the purpose of reducing the administrative demand on the facilities of complying with reporting requirements, developing updated standardized data reporting requirements, and improving the utility of the reported data and the ability to share the data across systems, including systems maintained by other State departments and agencies, county and local agencies, and federal authorities. The DOH's review is to include:

- (1) identifying and eliminating duplicative reporting;
- (2) establishing standardized formats, requirements, protocols, and systems for data reporting, which may include requiring facilities to report data in machine-readable formats;
- (3) establishing a centralized, cross-agency workgroup to monitor long-term care facility reporting;
- (4) assessing State health information technology needs to support technology-enabled and data-driven regulatory oversight across State departments and agencies, anticipate potential uses for the enhanced technologies and systems, enable systems to readily accept and analyze additional data metrics, and identify opportunities to centralize and modernize State health data infrastructure, processes, and analytic capabilities;
- (5) assessing long-term care facility health information technology needs to support population health management, interoperability, and modernized reporting requirements; and
- (6) identifying and applying for federal funding to support health information technology infrastructure development.

The bill requires all long-term care facilities to file with the DOH monthly and quarterly unaudited financial information, quarterly unaudited financial statements, annual audited financial statements, and such other financial information as the department may request. The information and statements will be posted on the department's Internet website and updated as they become available.

The bill additionally requires all long-term care facilities to annually report to the DOH the number and severity of facility-acquired infections occurring among residents of the long-term care facility in the preceding year involving: Methicillin-resistant *Staphylococcus aureus* (MRSA); *Clostridium difficile* (C.Diff); Surgical Site Infections After Colon Surgery (SSi-Colon); Central Line-

Associated Bloodstream Infections (CLABSI); Catheter-Associated Urinary Tract Infections (CAUTI); and any other facility-acquired infection for which the DOH requires annual reporting by regulation.

The DOH will be required to develop additional data reporting requirements for long-term care facilities as are necessary to improve market transparency and facilitate the department's ability to oversee and regulate operations in long-term care facilities, including, but not limited to, data related to occupancy, operating expenses and other appropriate financial metrics, and utilization and staffing data. In developing additional reporting requirements, the department is to solicit feedback from long-term care facilities and managed care plans concerning proposed new data metrics, methods of maximizing the efficiency of data collection and specification, minimizing duplicative data reporting, and identifying ways to consolidate, automate, or streamline reported data.

The DOH will also be required to establish, no later than 30 days after the effective date of the bill, centralized State protocols for long-term care facility communications to reduce duplicative outreach and enhance information sharing capabilities.

Long-term care facilities will be required to post on their Internet websites any policies or plans required to be in place at the facility pursuant to State law and have a dedicated staff person available at all times to respond to questions from the public concerning the policies and plans required to be posted on the facility's Internet website.

The DOH will be required to analyze data reported by long-term care facilities for oversight purposes and make the results of its analysis public whenever possible. At a minimum, the DOH will be required to develop, make available on its Internet website, and update at least monthly, a data dashboard that includes the data reported by each long-term care facility licensed in the State. The data dashboard will include: an overall performance score; details concerning the number and status of complaints involving the facility; the facility's star rating issued by the federal Centers for Medicare and Medicaid Services (CMS); the dates and results of inspections of the facility by the DOH, the Department of Human Services, and CMS, including links to any deficiencies or violations for which the facility was cited and to any corrective action plans in place at the facility; a breakdown of any costs and financial data reported by the facility; general staffing levels at the facility and rates of compliance with mandatory staffing ratios; the frequency with which antipsychotic medication was administered to facility residents; information concerning pressure ulcers and facility-acquired infections; and any other data required by the DOH. The DOH will additionally be required to prepare and publish on its Internet website annual reports on New Jersey's long-term care system of care.

The bill establishes in the DOH the "Long-Term Care Facility Advisory Council." The purpose of the council will be to advise the

DOH on matters related to the oversight of long-term care facilities and on issues concerning long-term care facility residents and their families, as well as to foster communication with the public regarding long-term care facilities. The responsibilities of the advisory council will include:

(1) analyzing and reviewing the results of long-term care facility inspections conducted by the DOH, including the penalties assessed against long-term care facilities and the department's adherence to federal guidance concerning state inspections of long-term care facilities;

(2) receiving public comment on the results of long-term care facility inspections; and

(3) consulting with the New Jersey Long-Term Care Ombudsman as necessary.

The advisory council will consist of seven members, including: the New Jersey Long-Term Care Ombudsman and the Assistant Commissioner for the Division of Medical Assistance and Health Services in the Department of Human Services, or their designees, who will serve ex officio; one public member, to be appointed by the Governor, who is to be a representative of the long-term care facility industry; and four public members who are advocates for residents of long-term care facilities, with two of the public members to be appointed by the Senate President and two of the public members to be appointed by the Speaker of the General Assembly.

The public members of the advisory council are to be appointed, and the advisory council is to organize, no later than 45 days after the effective date of the bill.

The advisory council will meet on a quarterly basis at times and places as may be designated by the chairperson. All meetings of the advisory council will be open to the public, and agendas, minutes, documents, and testimony from all meetings will be posted on the DOH's Internet website. The advisory council will be required to invite the Attorney General or a representative of the Office of the Attorney General, the State Auditor, the State Comptroller, and a representative of the DOH to be present at each meeting.

The advisory council will be required to prepare and submit biannual reports concerning its analysis of the DOH's oversight and inspections of long-term care facilities along with any recommendations for legislative or administrative action to the Governor and to the Legislature. The advisory council will be authorized to provide additional recommendations to the DOH at any time upon request.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2759

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 21, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2759 with committee amendments.

As amended by the committee, this bill requires the Department of Health (DOH) to develop a system of scaling actions and penalties for repeat violations of State and federal requirements for nursing home administration and operations.

Specifically, the DOH is to develop a special focus survey program for nursing homes with a history of chronic, repeat violations of State or federal requirements for nursing home administration or operations, or a history of noncompliance with corrective plans or administrative disciplinary actions, over the past three inspection cycles, which program will include the use of additional, focused surveys to determine whether the nursing home is taking appropriate steps to remediate the conditions that contributed to violations cited at the facility. The program will incorporate more-stringent penalties, sanctions, and corrective measures, including suspension or revocation of the facility's license or issuing a recommendation that the facility's contract with the federal Centers for Medicare and Medicaid Services (CMS) be terminated, for issues that are of longer duration or where the nursing home fails to demonstrate improvement following the imposition of less-stringent penalties, sanctions, or corrective measures. A nursing home included in the program will remain in the program for a period of at least 18 months. Any nursing home that qualifies for inclusion in the CMS Special Focus Facility Program that is not placed in that program will be automatically included in the special focus survey program.

Additionally, the DOH is to assess enhanced sanctions and other penalties for continued or repeat noncompliance with department regulations, particularly when the nursing home is cited two or more times for the same violation within a six-month period or when violations involve noncompliance with infection control requirements, including a series of escalating fines and licensure actions for repeated violations or multiple violations by the same nursing home, particularly in cases where a violation resulted in severe adverse health consequences for a resident or staff member at the nursing home. The amended bill enumerates the specific licensure actions that may be

taken, including suspending or revoking the nursing home's license, recommending the nursing home's contract with CMS be terminated, denying payment of Medicaid claims, appointing an independent manager to assume control over the nursing home, appointing a receiver, requiring directed in-service training, establishing a directed plan of correction, or taking other actions as may be provided by the Commissioner of Health by regulation.

The DOH will be required to establish a system to impose greater responsibility on each nursing home's medical director for quality outcomes at the nursing home, consistent with standards and guidelines promulgated by CMS for state surveys of nursing home medical directors.

To facilitate enforcement of rules and requirements concerning nursing home operations, the DOH will be required to request and consolidate nursing home data reported to other State and federal authorities in order to identify nursing homes with consistent or repeated performance issues, ongoing compliance issues, or high numbers of substantiated complaints. The DOH is to make the consolidated data available upon request to other State and federal entities having jurisdiction over nursing homes in the State.

The bill, as amended, requires the DOH to undertake a review of reporting requirements for nursing homes and take steps to standardize and consolidate the reporting requirements for the purpose of reducing the administrative demand of complying with reporting requirements, developing updated standardized data reporting requirements, and improving the utility of the reported data and the ability to share the data across systems. This review is to include:

- (1) identifying and eliminating duplicative reporting;
- (2) establishing standardized formats, requirements, protocols, and systems for data reporting;
- (3) establishing a centralized, cross-agency workgroup to monitor nursing home reporting;
- (4) assessing State health information technology needs to support technology-enabled and data-driven regulatory oversight across State departments and agencies, anticipate potential uses for the enhanced technologies and systems, enable systems to readily accept and analyze additional data metrics, and identify opportunities to centralize and modernize State health data infrastructure, processes, and analytic capabilities;
- (5) assessing nursing home health information technology needs to support population health management, interoperability, and modernized reporting requirements; and
- (6) identifying and applying for federal funding to support health information technology infrastructure development.

All nursing homes will be required to post on their Internet websites annual owner-certified financial statements along with the nursing home's most recent cost reports submitted to the CMS. The

DOH will be required to provide, on its Internet website, a link to the sites where the nursing homes' financial statements and cost reports are posted. If the nursing home is part of a system of nursing homes, the nursing home may post aggregate financial data for all nursing homes that are part of that system.

All nursing homes will additionally be required to report the number of certain facility-acquired infections occurring among residents of the nursing home in the preceding year.

The DOH will be required to develop additional data reporting requirements for nursing homes as are necessary to improve market transparency and facilitate the DOH's ability to oversee and regulate operations in nursing homes, including, but not limited to, data related to occupancy, operating expenses and other appropriate financial metrics, and utilization and staffing data. In developing additional reporting requirements, the DOH will be required to solicit feedback from nursing homes and Medicaid managed care organizations (MCOs) concerning proposed new data metrics, methods of maximizing the efficiency of data collection and specification, minimizing duplicative data reporting, and identifying ways to consolidate, automate, or streamline the data required to be reported by State and federal agencies and MCOs.

The DOH will be required to establish centralized State protocols for nursing home communications to reduce duplicative outreach and enhance information sharing capabilities.

The DOH will further require nursing homes to post on their Internet websites a link to the dashboard developed and maintained by the DOH under the bill and designate a staff person who will be responsible for responding to questions from the public concerning the nursing home's policies, procedures, and operations. The contact information for the designated staff person will be posted on the nursing home's website.

The DOH will be required to analyze data reported by nursing homes for oversight purposes and make the results of its analysis public whenever possible, provided that nothing in the bill will require the disclosure of any information the DOH deems to be confidential, proprietary, or a trade secret. At a minimum, the DOH is to develop, make available on its Internet website, and update at least quarterly, a data dashboard that includes the data reported by each nursing home licensed in the State, including:

- (1) the nursing home's star rating issued by CMS;
- (2) complaints involving the nursing home, including substantiated complaints, open investigations, and complaints that have not been investigated or resolved;
- (3) the dates and results of inspections and surveys of the nursing home by State and federal authorities, including links to any deficiencies or violations for which the nursing home was cited and to any corrective action plans in place at the nursing home;

(4) a link to the certified financial statements and CMS cost reports for the nursing home;

(5) general staffing levels at the nursing home and rates of compliance with mandatory staffing ratios, along with the average and overall number of shifts during which the nursing home was out of compliance with staffing ratios;

(6) the frequency with which antipsychotic medication was administered to residents of the nursing home;

(7) the number of pressure ulcers developed by residents;

(8) facility-acquired infections at the nursing home; and

(9) any other data the DOH determines appropriate to allow the public to make informed choices when evaluating and selecting a nursing home.

The DOH is to utilize the data dashboard to develop a performance improvement plan for all nursing homes throughout the State, as well as to identify areas in need of improvement and strategies to facilitate performance improvement in individual nursing homes.

The DOH will additionally be required to prepare and publish on its Internet website annual reports on New Jersey's nursing home system of care.

The amended bill additionally establishes the "Nursing Home Advisory Council" in the DOH, the purpose of which will be to advise the DOH on matters related to the oversight of nursing homes and on issues concerning nursing home residents and their families, as well as to foster communication with the public regarding nursing homes. The specific responsibilities of the advisory council will include: analyzing and reviewing the results of inspections and surveys of nursing homes, including the penalties assessed against nursing homes and the DOH's adherence to federal guidance concerning state inspections of nursing homes; receiving public comment on the results of nursing home inspections and surveys; consulting with the New Jersey Long-Term Care Ombudsman as necessary; and reviewing the data dashboard established under the bill to identify areas of concern within the nursing home industry and develop recommendations to foster improvements in quality of care, resident and staff safety, and overall performance.

The advisory council will consist of nine members, including the New Jersey Long-Term Care Ombudsman and the Assistant Commissioner for the Division of Medical Assistance and Health Services in the Department of Human Services, or their designees, who will serve ex officio; one nursing home surveyor employed by the DOH, to be named by the Commissioner of Health, who will serve ex officio; two public members, to be appointed by the Governor, with one member representing a for-profit nursing home and one member representing a nonprofit nursing home; and four public members who are advocates for nursing home residents, with two of the public

members to be appointed by the Senate President and two of the public members to be appointed by the Speaker of the General Assembly.

The public members of the advisory council are to be appointed, and the advisory council is to first organize, no later than 45 days after the effective date of the bill. Public members of the advisory council will serve for a term of five years, with staggered terms of appointment for the members first appointed. Public members will be eligible for reappointment to the advisory council.

The advisory council will meet on a quarterly basis at such times and places as are designated by the chairperson. A majority of the authorized membership will constitute a quorum for the purposes of taking official action. All meetings of the advisory council will be open to the public. Agendas, minutes, documents, and testimony from each meeting will be posted on the DOH's Internet website. The advisory council is to invite the Attorney General or a representative, the State Auditor, the State Comptroller, and a representative of the DOH to be present at each meeting.

The advisory council will be required to biannually prepare and submit a report concerning its analysis of the DOH's oversight and inspections of nursing homes, along with any recommendations for legislative or administrative action, to the Governor and the Legislature. The advisory council may provide additional recommendations to the DOH at any time upon request.

As amended by the committee, Senate Bill No. 2759 is identical to Assembly Bill No. 4478 (1R), which was also reported by the committee on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments revise the bill to make it applicable only to nursing homes, rather than to all long-term care facilities. The amendments revise the title and synopsis of the bill to reflect this change.

The committee amendments revise the specific actions and penalties the DOH can take under the bill to remove language concerning additional licensure surveys and instead establish a special focus survey program for facilities with a history of chronic, repeat violations or noncompliance with administrative enforcement actions.

The committee amendments clarify language providing that enhanced sanctions that may be imposed against a facility with multiple citations for the same violation, to provide that the enhanced sanctions may be imposed on nursing homes with two or more citations for the same violation in a six-month period.

The committee amendments enumerate specific licensure actions that may be imposed against a nursing home for repeat or multiple violations.

The committee amendments remove a requirement for the DOH to evaluate staffing levels and competency by resident acuity and complexity.

The committee amendments remove language requiring the DOH to impose specific penalties against a nursing home's medical director for failure to produce quality improvements at the facility, and instead provide that the system to impose greater responsibility on medical directors is to be consistent with CMS guidelines for state surveys of nursing home medical directors.

The committee amendments remove a requirement for nursing homes to submit monthly and quarterly unaudited financial information, annual audited financial statements, and certain other financial information to the DOH, and provide instead that each nursing home will be required to post annual owner-certified financial statements on its own Internet website along with the nursing home's most recent costs reports submitted to the CMS, with the DOH providing a link to the facility's financial statements and cost reports on the DOH website. The financial data will no longer be reported to the DOH. The committee amendments provide that nursing homes systems will be permitted to publish aggregate financial statements and cost reports for all nursing homes that are part of the system.

The committee amendments revise the requirement for nursing homes to report certain facility-acquired infections to the DOH to remove a requirement that they report the severity of each infection. The amendments additionally remove language requiring the severity of facility-acquired infections to be included on the DOH's data dashboard.

The committee amendments remove a provision that would have required nursing homes to post all policies and plans in effect at the nursing home on their Internet websites, and instead require nursing home websites to include a link to the DOH's data dashboard.

The committee amendments revise language that would have required nursing homes to have a dedicated staff person available at all times to respond to questions from the public, to instead require the nursing home to designate a staff person responsible for responding to questions from the public.

The committee amendments provide that the DOH is not to make public any information it deems to be confidential, proprietary, or a trade secret.

The committee amendments revise the requirements for the data dashboard to require the DOH to update it quarterly, rather than monthly. The DOH will no longer be required to develop a performance score for nursing homes. The dashboard will include information about nursing home surveys as well as inspections.

The committee amendments add language providing that the DOH is to use the data dashboard to develop a performance improvement plan for all nursing homes, as well as to identify issues at individual nursing homes.

The committee amendments change the name of the “Long-Term Care Facility Advisory Council” being established under the bill to the “Nursing Home Advisory Council,” and revise the membership to include a DOH nursing home surveyor, who will serve ex officio, and one additional public member to be appointed by the Governor. The amendments provide that, of the Governor’s two appointees to the council, one will represent for-profit nursing homes and one will represent nonprofit nursing homes.

The committee amendments provide that the advisory council is to review the data dashboard established under the bill to identify areas of concern within the nursing home industry and develop recommendations for improvements.

The committee amendments remove certain deadlines for the DOH to take action and instead provide that the bill will take effect 180 days after the date of enactment, except that the provisions establishing the advisory council will take effect immediately.

The committee amendments make certain technical corrections to fix typographical errors, adjust internal numbering, and to update certain terminology.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that annual State costs would increase by an indeterminate amount for the Department of Health (DOH) to implement additional data reporting, regulatory, and oversight requirements pursuant to this bill.

The DOH would incur substantial additional costs to develop and implement a special focus survey program and a system of scaling actions and penalties for nursing homes with repeated violations of State and federal requirements concerning nursing home administration and operations. In order to implement these measures, the DOH would be required to hire additional staff to oversee program operations, conduct in-depth surveys, and monitor the compliance status of the State’s troubled nursing homes.

The escalating fines and penalties levied on nursing homes with recurring regulatory violations will increase State revenues, but the OLS cannot estimate the magnitude of the revenue increase because the bill does not establish either the amount of the fines or the schedule on which the fines for noncompliant nursing homes will be levied.

The three nursing homes operated by the Department of Military and Veterans’ Affairs (DMAVA) and nine county-operated nursing homes will incur indeterminate annual cost increases to comply with the increased operational and data reporting requirements imposed pursuant to this bill. To the extent that any of the DMAVA- or

county-operated nursing homes are assessed escalating fines or enhanced penalties or sanctions, the State and certain counties would face additional costs to effect the administrative and operational changes necessary to bring these nursing homes into compliance with State and federal requirements.

STATEMENT TO
[First Reprint]
SENATE, No. 2759

with Senate Floor Amendments
(Proposed by Senator VITALE)

ADOPTED: DECEMBER 2, 2021

These Senate amendments remove from the bill provisions that would have established a special focus survey program for nursing homes with a history of repeat, chronic violations of State or federal requirements for nursing home administration and operations, as well as provisions specifying how escalating fines and adverse licensure actions would be applied to a nursing home. The amendments also remove a provision requiring the Department of Health (DOH) to establish a system to impose greater responsibility on nursing home medical directors for quality outcomes at the nursing home.

The Senate amendments replace these provisions with a requirement that a nursing home that is penalized for a subsequent F-level deficiency or higher, as outlined in federal Centers for Medicare and Medicaid Services (CMS) guidelines, in a given three-year period is to be subject to a penalty that is more severe than the penalty imposed for the previous violation. The amendments further provide that the DOH may impose additional penalties, sanctions, and corrective measures when a violation involves noncompliance with infection control requirements or results in severe adverse health consequences for a staff member or resident.

The Senate amendments revise a requirement for nursing homes to report certain facility-acquired infections to the DOH, to instead require that nursing homes: 1) participate in the National Health Care Safety Network's (NHSN) Long-term Care Facility Component; 2) complete the NHSN's long-term care facility annual facility survey; and 3) participate in the NHSN's long-term care facility monthly reporting plan, including the healthcare-associated infection reporting modules for: urinary tract infections, the laboratory-identified event module for *Clostridium difficile* (*C.diff*) infection and multidrug-resistant organisms, and prevention measures; and the monthly reporting plan for prevention process measures, including hand hygiene, gloves, and gown adherence. The amendments add a new requirement for the DOH to request from the NHSN, on a quarterly basis, information concerning the number of facility-acquired infections reported to the NHSN by New Jersey nursing homes for the purposes of making this information available to the public through the DOH's data dashboard established under the bill. The information is to include details concerning the number and type of each reportable infection occurring in each nursing home, as well as the Statewide and national averages for each type of reported infection.

The Senate amendments make a requirement for the DOH to develop additional data reporting requirements permissive, rather than mandatory, and remove a requirement that the additional data reporting facilitate market transparency; instead, the additional data reporting is to improve transparency in general. The amendments provide that, in developing additional data metrics, the DOH is to solicit feedback from, in addition to representatives of nursing homes and managed care organizations, advocacy groups for nursing home residents and their families and the New Jersey Long-Term Care Ombudsman.

The Senate amendments remove a requirement for the DOH to analyze data reported by nursing homes for oversight purposes and make certain information available to the public, and instead require the DOH to establish a dashboard with links to the sites where certain information and data relevant to nursing homes may be found. The amendments require that the dashboard be searchable by nursing home, include a separate listing for each nursing home, and include a description of the data or information available through a given link.

The Senate amendments revise a requirement for the DOH to provide information concerning nursing home staffing ratios to provide that information concerning noncompliance with mandatory staffing ratios is to be provided only to the extent feasible, and to remove a requirement to provide information concerning the number of shifts during which a nursing home was out of compliance.

The Senate amendments remove a requirement for the DOH to use the data dashboard established under the bill to develop performance improvement plans for nursing homes and to facilitate performance improvements in individual nursing homes.

The Senate amendments remove a section from the bill that would have established a Nursing Home Advisory Council to advise the DOH on matters related to the oversight of nursing homes and issues concerning nursing home residents and their families, as well as to foster communication with the public regarding nursing homes.

The Senate amendments provide the DOH with the authority to promulgate rules and regulations on an expedited basis for the purposes of implementing the bill, which expedited rules and regulations would remain in effect for up to 18 months and may thereafter be readopted, with or without amendments, pursuant to the standard procedures established under the “Administrative Procedure Act.”

The Senate amendments revise the effective date of the bill from 180 days after enactment to the first day of the 10th month after the date of enactment, except that the provision granting the DOH expedited rulemaking authority will take effect immediately upon enactment.

STATEMENT TO
[Second Reprint]
SENATE, No. 2759

with Senate Floor Amendments
(Proposed by Senator VITALE)

ADOPTED: DECEMBER 20, 2021

These Senate amendments provide that a nonprofit nursing home may meet the requirement to annually post an owner-certified financial statement on the nursing home's Internet website by posting a copy of the nursing home's most recent Internal Revenue Service Form 990.

STATEMENT TO
[First Reprint]
SENATE, No. 2759

with Senate Floor Amendments
(Proposed by Senator VITALE)

ADOPTED: DECEMBER 2, 2021

These Senate amendments remove from the bill provisions that would have established a special focus survey program for nursing homes with a history of repeat, chronic violations of State or federal requirements for nursing home administration and operations, as well as provisions specifying how escalating fines and adverse licensure actions would be applied to a nursing home. The amendments also remove a provision requiring the Department of Health (DOH) to establish a system to impose greater responsibility on nursing home medical directors for quality outcomes at the nursing home.

The Senate amendments replace these provisions with a requirement that a nursing home that is penalized for a subsequent F-level deficiency or higher, as outlined in federal Centers for Medicare and Medicaid Services (CMS) guidelines, in a given three-year period is to be subject to a penalty that is more severe than the penalty imposed for the previous violation. The amendments further provide that the DOH may impose additional penalties, sanctions, and corrective measures when a violation involves noncompliance with infection control requirements or results in severe adverse health consequences for a staff member or resident.

The Senate amendments revise a requirement for nursing homes to report certain facility-acquired infections to the DOH, to instead require that nursing homes: 1) participate in the National Health Care Safety Network's (NHSN) Long-term Care Facility Component; 2) complete the NHSN's long-term care facility annual facility survey; and 3) participate in the NHSN's long-term care facility monthly reporting plan, including the healthcare-associated infection reporting modules for: urinary tract infections, the laboratory-identified event module for *Clostridium difficile* (*C.diff*) infection and multidrug-resistant organisms, and prevention measures; and the monthly reporting plan for prevention process measures, including hand hygiene, gloves, and gown adherence. The amendments add a new requirement for the DOH to request from the NHSN, on a quarterly basis, information concerning the number of facility-acquired infections reported to the NHSN by New Jersey nursing homes for the purposes of making this information available to the public through the DOH's data dashboard established under the bill. The information is to include details concerning the number and type of each reportable infection occurring in each nursing home, as well as the Statewide and national averages for each type of reported infection.

The Senate amendments make a requirement for the DOH to develop additional data reporting requirements permissive, rather than mandatory, and remove a requirement that the additional data reporting facilitate market transparency; instead, the additional data reporting is to improve transparency in general. The amendments provide that, in developing additional data metrics, the DOH is to solicit feedback from, in addition to representatives of nursing homes and managed care organizations, advocacy groups for nursing home residents and their families and the New Jersey Long-Term Care Ombudsman.

The Senate amendments remove a requirement for the DOH to analyze data reported by nursing homes for oversight purposes and make certain information available to the public, and instead require the DOH to establish a dashboard with links to the sites where certain information and data relevant to nursing homes may be found. The amendments require that the dashboard be searchable by nursing home, include a separate listing for each nursing home, and include a description of the data or information available through a given link.

The Senate amendments revise a requirement for the DOH to provide information concerning nursing home staffing ratios to provide that information concerning noncompliance with mandatory staffing ratios is to be provided only to the extent feasible, and to remove a requirement to provide information concerning the number of shifts during which a nursing home was out of compliance.

The Senate amendments remove a requirement for the DOH to use the data dashboard established under the bill to develop performance improvement plans for nursing homes and to facilitate performance improvements in individual nursing homes.

The Senate amendments remove a section from the bill that would have established a Nursing Home Advisory Council to advise the DOH on matters related to the oversight of nursing homes and issues concerning nursing home residents and their families, as well as to foster communication with the public regarding nursing homes.

The Senate amendments provide the DOH with the authority to promulgate rules and regulations on an expedited basis for the purposes of implementing the bill, which expedited rules and regulations would remain in effect for up to 18 months and may thereafter be readopted, with or without amendments, pursuant to the standard procedures established under the “Administrative Procedure Act.”

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STATEMENT TO
[Second Reprint]
SENATE, No. 2759

with Senate Floor Amendments
(Proposed by Senator VITALE)

ADOPTED: DECEMBER 20, 2021

These Senate amendments provide that a nonprofit nursing home may meet the requirement to annually post an owner-certified financial statement on the nursing home's Internet website by posting a copy of the nursing home's most recent Internal Revenue Service Form 990.

Governor Murphy Takes Action on Legislation

01/18/2022

TRENTON – Governor Murphy today signed the following bills:

S-384/A-1964 (Weinberg, Singleton/Stanley, Munoz, McKeon, Sumter, Lampitt, Vainieri Huttle, Wimberly, Mosquera, Downey, Chiaravalloti) – Expands training for judges, law enforcement officers and assistant county prosecutors concerning handling of domestic violence cases

S-386/A-1763 (Weinberg, Singleton/Munoz, Vainieri Huttle, Downey, Mosquera, Lampitt, Benson) - Establishes mandatory domestic violence training for municipal prosecutors

S-396/A-4903 (Weinberg, Addiego/Johnson, Mukherji) – Adjusts statute of limitations on damage claim for construction defect in common interest communities

S-705/A-1077 (Ruiz, Cunningham/Speight, Vainieri Huttle, Downey) – Requires DOH to develop and implement plan to improve access to perinatal mood and anxiety disorder screening

SCS for S-844 and 2533/ACS for A-4635 (Pou, Greenstein/Zwicker, Lopez) – Revises reporting requirements for charitable organizations and non-profit corporations

S-867/A-2316 (Pou/Jimenez, Giblin, Johnson) – Permits physical therapists to perform dry needling under certain circumstances

S-896/A-2396 (Pou, Turner/Wimberly, Timberlake, Murphy) – Expands Office of Public Defender representation of juveniles; repeals section 4 of P.L.1968, c.371

S-969WGR/ACS for A-2687 (Ruiz, Turner/Mazzeo, Lampitt, Moen) – Establishes loan redemption program for certain teachers to redeem loan amounts received under New Jersey College Loans to Assist State Students Loan Program through employment in certain schools; makes annual appropriation of \$1 million

S-994/A-6248 (Sweeney, Singleton/Lopez) – Requires State agencies and political subdivisions to make good faith effort to purchase five percent of goods and services from Central Nonprofit Agency

SCS for S-1016/ACS for A-2070 (Smith, Bateman/Calabrese, Mukherji, Benson) – Restricts use of neonicotinoid pesticides

S-1020/AS for ACS for A-1184 and 4414 (Ruiz, Gopal/Zwicker, Conaway, Verrelli, Caputo) – Requires School Report Card to include demographic breakdown of students who receive disciplinary actions; requires Commissioner of Education to establish Statewide database concerning certain disciplinary actions

S-1559/A-1659 (Scutari, Diegnan/Quijano, Bramnick, Mukherji, Sumter, Downey, Dancer) – “New Jersey Insurance Fair Conduct Act”

S-1771/A-1489 (Madden, Turner/Moriarty, Mosquera, Vainieri Huttle) – Expressly prohibits invasive examination of unconscious patient by health care practitioner without patient’s prior informed written consent

S-2160wGR/A-5701 (Sweeney, Oroho, Singer/Carter, Lampitt, Jasey) – Creates special education unit within the Office of Administrative Law; requires annual report

SCS for S-2515/ACS for A-4676 (Smith, Greenstein/Quijano, Jasey, McKeon) – Establishes postconsumer recycled content requirements for rigid plastic containers, glass containers, paper and plastic carryout bags, and plastic trash bags; prohibits sale of polystyrene loose fill packaging

S-2723/A-2614 (Sweeney, Turner/Murphy, Benson, Timberlake) – “21st Century Integrated Digital Experience Act”

S-2830/A-5291 (Ruiz, Singleton/Quijano) – Requires educator preparation program to report passing rates of students who complete certain tests and to disseminate information on test fee waiver programs, and permits collection of student fee for certain testing costs

S-2835/A-5292 (Ruiz, Cunningham/Quijano, Lampitt, Jasey) – Requires compilation of data and issuance of annual reports on New Jersey teacher workforce

S-2921/A-5554 (Gopal, Greenstein/Houghtaling, Downey, Mukherji) – Allows municipalities to designate outdoor areas upon which people may consume alcoholic beverages

S-3009/A-4847 (Vitale, Gopal, Gill/Vainieri Huttle, Quijano, Verrelli) – Authorizes expanded provision of harm reduction services to distribute sterile syringes and provide certain support services to persons who use drugs intravenously

S-3081/A-5219 (Singleton/McKeon, Dunn) – Repeals law concerning excess rates and charges for title insurance; makes agreement to use services of title or settlement service company subject to attorney review

S-3164/A-4987 (Gopal, Singleton/Houghtaling, Vainieri Huttle, Giblin) – Creates NJ Legislative Youth Council

S-3265/A-5074 (Diegnan, Greenstein/DeAngelo, Dancer, Mukherji) – Permits members of SPRS to purchase service credit for prior public employment with federal government or another state

S-3342/A-5463 (Codey, Singleton/Jasey, Giblin, Timberlake) – Directs NJT to erect statue in honor of A. Philip Randolph; appropriates \$90,000

S-3465/A-4336 (Oroho, Sweeney/Houghtaling, Space) – Directs Department of Agriculture to pay annual premiums to enrolled dairy farmers for certain coverage under the federal Dairy Margin Coverage Program; appropriates \$125,000

S-3488wGR/A-5537 (Sweeney, Gopal, O'Scanlon/Burzichelli, Dancer, Spearman) – Modifies certain procedures pertaining to school district regionalization; establishes grant program for cost reimbursement of conducting regionalization feasibility studies; and provides financial incentives for regionalization

S-3493/A-5458 (Vitale, Gill/Vainieri Huttle, Mukherji, McKnight) – Permits expungement of possession or distribution of hypodermic syringe or needle offense in cases of previous expungement; repeals criminal offense of possession of syringe

S-3539/A5409 (T. Kean, Gopal/Houghtaling) – Directs DEP to establish grant program for local governments to support development of community gardens

S-3594/A-5509 (Singleton, Scutari/Zwicker, Reynolds-Jackson, Verrelli) – Provides that in personal

injury or wrongful death lawsuits, calculations of lost or impaired earnings capacity not be reduced because of race, ethnicity, gender identity or expression, or affectional or sexual orientation

S-3672/A-6009 (Singleton, Turner, Moen, Johnson, McKnight) – Permits exemption from civil service examination requirement for entry-level law enforcement officers, sheriff's officers, and State and county correctional police officers; permits hiring or appointment of such officers under certain conditions, and makes appropriation

S-3673/A-6219 (Gopal, Greenstein/Burzichelli) – Authorizes limited breweries and craft distilleries to sell at retail and offer for sampling purposes product bottled and stored off-site under certain circumstances

S-3685/A-5576 (Ruiz, Codey/Jasey, Lampitt, Mukherji) – Permits teacher and professional staff member who provides special services retired from TPAF to return to employment for up to two years without reenrollment in TPAF if employment commences during 2021-2022 and 2022-2023 school years

S-3707/A-5673 (Vitale, Ruiz/Vainieri Huttie, Downey, Zwicker) – Repeals statute criminalizing sexual penetration while infected with venereal disease or HIV under certain circumstances; requires that in prosecutions for endangering another by creating substantial risk of transmitting infectious disease, name of defendant and other person be kept confidential

S-3764/A-3369 (Gopal, Weinberg/Johnson, Stanley, Karabinchak) – Establishes Commission on Asian American Heritage in DOE

S-3810/ACS for A-5862 (Sweeney, Addiego, Greenstein/Benson, Quijano) – "Responsible Collective Negotiations Act"

S-3968/A-5930 (Singleton, Beach/Sumter, Karabinchak) – Increases purchasing threshold permitting Director of Division of Purchase and Property to delegate authority to agencies; increases bid advertising threshold on certain contracts by same scale

S-3975/A-5963 (Greenstein, Oroho/Benson, Vainieri Huttie, DeAngelo) – Establishes requirements to commence screening newborn infants for congenital cytomegalovirus infection; establishes public awareness campaign

S-4004wGR/A-5950 (Weinberg, Greenstein/Sumter, Benson, Reynolds-Jackson) – Establishes database of certain appointed positions and elected offices

S-4020/A-5867 (Gopal, Cunningham/Chiaravalloti, Jasey, Carter) – Expands bonding authority of New Jersey Educational Facilities Authority to permit financing for general funding needs at New Jersey's institutions of higher education

S-4021/A-6100 (Gopal, Ruiz/Mukherji, Jasey, Timberlake, Stanley) – Requires school districts to provide instruction on history and contributions of Asian Americans and Pacific Islanders as part of implementation of New Jersey Student Learning Standards in Social Studies

S-4043/A-6005 (Cunningham/Jasey, Greenwald) – Raises statutory threshold for certain public bidding, permits bidder disqualification due to prior negative experience, adds exemptions to public bidding requirement under "State College Contracts Law," and establishes process for cooperative pricing system

S-4063/A-6220 (Sweeney/Giblin, Egan) – Removes New Jersey Maritime Pilot and Docking Pilot Commission from appropriations act provision that limits compensation and health benefits; clarifies PERS and SHBP eligibility for members of commission

S-4068/ACS for A-6110 and 6185 (Sarlo, Oroho/Benson, Mukherji, Bramnick) – Revises elective pass-through entity business alternative income tax

S-4074wGR/A-6000 (Ruiz, Beach/Verrelli, Lampitt, Carter) – Allows alternative evaluation in place of basic skills testing requirements for certain teacher certification

SCS for S-4102/A-6230 (Sweeney, Ruiz/Benson, Mejia, Zwicker) – Establishes Direct Support Professional Career Development Program; appropriates \$1,000,000

S-4128/A-6231 (Sweeney, Pou/Houghtaling, Conaway, Dancer) – Requires that only fruits and vegetables grown and packaged in NJ may be labeled by food retailers as local to State

S-4207/A-6119 (Sweeney, Beach/Mukherji, Egan, Pintor Marin) – Concerns apprenticeship programs of public works contractors

S-4210/A-6062 (Sweeney, Greenstein/Greenwald, McKnight, Mukherji) – Requires EDA to establish loan program to assist certain businesses with funding to provide reasonable accommodations for employees with disabilities

S-4211/A-6228 (Sweeney, Corrado/Benson, Speight, Zwicker) – Establishes county college-based adult centers for transition for individuals with developmental disabilities; makes annual appropriation of \$4.5 million

S-4218/A-6256 (Scutari/Reynolds-Jackson, Wimberly, Mukherji) – Appropriates \$2 million to CRDA to support costs associated with hosting NAACP National Convention in Atlantic City

S-4233/A-6229 (Scutari, Gopal/Mukherji, Jimenez) – Limits fees charged to patients and authorized third parties for copies of medical and billing records

S-4252/A-6182 (Madden/Murphy, Chaparro) – Limits extension of mandatory retirement to 90 days from State Police Retirement System during emergencies

A-259/S-2224 (DeAngelo, Mukherji, Benson/Gopal, Pennacchio) – Provides civil service preference to military service members who did not serve in theater of operation but received campaign or expedition medal

A-798/S-52 (Verrelli, Vainieri Huttel, Armato/Singer, Greenstein) – Establishes local drug overdose fatality review teams

A-802/S-1352 (Verrelli, Reynolds-Jackson, Murphy/Turner, Pou) – Requires certain retailers to train employees on gift card fraud

A-862wGR/S-962 (Chiaravalloti, Karabinchak/Pennacchio, Pou) – Permits municipalities to refund excess property taxes paid by a taxpayer who wins an assessment appeal as a property tax credit

A-953/S-4031 (Karabinchak, Houghtaling/Pou) – Requires architects disclose insurance coverage

ACS for A-998 and 2349/S-4312 (Moen, Downey, Houghtaling, Benson, Vainieri Huttel/Ruiz, Beach, Singleton) – The “New Jersey Social Innovation Act”; establishes social innovation loan pilot program and study commission within EDA

A-1121/S-1871 (Murphy, Dancer, Stanley/Lagana, Pennacchio) – Upgrades certain crimes of misrepresenting oneself as member or veteran of US Armed Forces or organized militia

A-1219wGR/S-1054 (Chaparro, McKnight/Stack) – Requires owner notification of rabies testing protocol prior to testing of owner’s animal for rabies

A-1229wGR/S-2161 (Schaer, Mosquera, Tucker, Lampitt, Vainieri Huttle, Quijano, Wimberly, Pintor Marin, Jasey/Turner, Singleton) – Requires DCA to make information on homeless prevention programs and services available on its Internet website

A-1293/S-3977 (Greenwald, Burzichelli, Mukherji/Greenstein, Gopal) – Establishes advisory council for the brewery, cidery, meadery, and distillery industries in NJ and provides for funding through certain alcoholic beverage tax receipts

A-1663/S-1842 (Quijano, Vainieri Huttle, Karabinchak/Cryan, Scutari) – Establishes “New Jersey Nonprofit Security Grant Program”

A-2186/S-1599 (Mukherji, Chaparro, McKnight/Codey, Pou) – Establishes Statewide database of beds in shelters for the homeless

A-2360/S-3285 (Chaparro, Karabinchak, Johnson/Greenstein, Stack) – Requires electric public utility to charge residential rate for service used by residential customer for electric vehicle charging at charging stations within certain designated parking spaces

A-2685wGR/S-4209 (Armato, Mazzeo, Mukherji/Stack) – Concerns information on property condition disclosure statement

A-2772/S-1040 (Downey, Houghtaling, Benson/Gopal) – Authorizes certain Medicaid recipients residing on post-secondary school campus to participate remotely in meetings of non-medical nature regarding Medicaid benefits

A-2877/S-1149 (Dancer, Vainieri Huttle, Reynolds-Jackson/Ruiz) – Requires registration of certain vacant and abandoned properties with municipalities and provides enforcement tools related to maintenance of these properties

A-3007/S-3127 (Lampitt, Dunn, Benson/Lagana, Gopal) – Requires institutions of higher education to provide students with access to mental health care programs and services and to establish a hotline to provide information concerning the availability of those services

A-3392/S-1219 (Reynolds-Jackson, Timberlake, Jasey/Turner, Beach) – Requires student representative be appointed to each board of education of school district and board of trustees of charter school that includes grades nine through 12

A-3804/S-1590 (Armato, Murphy, S. Kean/Beach, A.M. Bucco) – Designates 9-1-1 operators or dispatchers as 9-1-1 first responder dispatchers

A-3870/S-2807 (Karabinchak, Johnson, Mukherji/Greenstein, Pou) – “Defense Against Porch Pirates Act”; amends theft statute

A-3950wGR/S-3180 (Verrelli, Benson, Zwicker/Greenstein, Turner) – Prohibits employer use of tracking device in vehicle operated by employee under certain circumstances

A-4002wGR/S-2257 (Caputo, Dancer, Murphy/Gopal, Sarlo) – Allows deduction of promotional gaming credit from gross revenue on sports wagering

A-4232/S-4231 (Houghtaling, Dancer, Wirths/Oroho, Smith) – Creates program in Department of Agriculture for deer fencing on certain farmland

A-4238/S-2561 (Chiaravalloti, Schaer, Benson/Gopal, Singer) – Establishes minimum Medicaid reimbursement rate for adult medical day care services

A-4241/S-2894 (Downey, Vainieri Huttle, Murphy/Pou) – Requires DHS to conduct biennial survey of SNAP experience

ACS for A-4253/S-3233 (Conaway, Pinkin, Jimenez/Cryan) – Requires certain electronic medical programs to include demographic data entry feature; requires laboratories to record certain patients' demographic information; requires certain hospitals and laboratories to implement cultural competency training program

A-4366/S-2801 (Taliaferro, Sumter, Mukherji/Pou, Greenstein) – Requires Police Training Commission to contract with crisis intervention training center to provide mental health training to police officers and establish curriculum specific to persons experiencing economic crisis or substance use disorder

A-4434wGR/S-2716 (Greenwald, Lampitt, Mukherji/Beach, Ruiz) – Establishes Student Wellness Grant Program in DOE

A-4478/S2759 (Vainieri Huttle, Speight, Schepisi, DeCroce/Vitale, Madden) – Establishes additional requirements for DOH to assess sanctions and impose penalties on nursing homes; revises reporting requirements for nursing homes

A-4569/S-3535 (Reynolds-Jackson, Benson, Karabinchak/Turner) – Requires BPU, electric power suppliers, and gas suppliers to publish certain information related to filing of customer complaints

ACS for A-4655/S-3595 (Reynolds-Jackson, Wimberly, Carter/Turner) – Limits police presence at polling places and ballot drop boxes; prohibits electioneering within 100 feet of ballot drop box

A-4771/S-2951 (Downey, Armato, Mukherji/Gopal, Singleton) – Expands offenses eligible for expungement upon successful discharge from drug court

A-4856/S-3094 (Lampitt, Benson, Caputo/Ruiz, Beach) – Requires Internet websites and web services of school districts, charter schools, renaissance schools, and the Marie H. Katzenbach School for the Deaf to be accessible to persons with disabilities

A-5033wGR/S-3279 (Benson, Dancer, Verrelli/Gopal) – Authorizes motor vehicle dealers to sell motor vehicles online and obtain electronic signatures for motor vehicle transactions

ACS for A-5075wGR/S-4001 (Burzichelli, Dancer, Johnson/Sweeney, A.M. Bucco) – Removes Fire Museum and Fallen Firefighters Memorial from auspices of DEP and establishes museum as independent organization; makes \$200,000 supplemental appropriation

A-5160/S-3324 (DeAngelo, Conaway, Zwicker/Smith, Bateman) – Establishes minimum energy and water efficiency standards for certain products sold, offered for sale, or leased in the State

A-5294/S-3418 (Speight, Vainieri Huttle, Verrelli/Gopal, Madden) – Provides fast track hiring and advancement employment opportunities by State for persons with significant disabilities

A-5296/S-3426 (Speight, Vainieri Huttle, McKnight/T. Kean, Schepisi) – Provides for employment by State of certain persons with disabilities

A-5322/S-3433 (Mosquera, Vainieri Huttle, DePhillips/Cruz-Perez, T. Kean) – Provides for process to vacate and expunge certain arrests, charges, complaints, convictions, other dispositions, and DNA

records, associated with violations by certain human trafficking victims

A-5336wGR/S-3441 (Benson, Freiman, Vainieri Huttie/Diegnan, Madden) – Requires DHS to establish payment programs for purchase of transportation services from private sector and government transportation service providers

A-5439/S-3760 (Caputo, Dancer, Murphy/Gopal, Beach) – Changes deadline for New Jersey Racing Commission's annual report from end of calendar year to end of State fiscal year

A-5694/S-3783 (Houghtaling, Downey, Dancer/Gopal, Madden) – Permits dependents of military member to enroll in school district in advance of military member's relocation to district

A-5814/S-3851 (Swain, Tully, Benson/Lagana, Diegnan) – Creates Office of School Bus Safety in Department of Education; appropriates \$200,000

A-5864wGR/S-3939 (Speight, Pintor Marin, Chaparro, McKnight, DeAngelo, Bergen/Gopal, Cryan) – Allows law enforcement officers to review body worn camera recordings prior to creating initial report

A-5997/S-4084 (Coughlin, Lopez/Sweeney, O'Scanlon) – Removes requirement for Legislature, DOE, free public libraries, and historical societies to purchase "Manual of the Legislature of New Jersey"

A-6012/S-4076 (Moen, Murphy, Freiman/Sarlo, Gopal) – Appropriates \$500,000 for USS New Jersey Commissioning Committee to support commissioning of boat and assigned personnel

A-6020/S-4114 (Conaway, Jimenez, Vainieri Huttie/Codey) – Establishes requirements for certain tobacco product retailers to stock and sell nicotine replacement therapy products

A-6060/S-4272 (Tucker, Caputo, Mukherji/Cunningham) – Makes supplemental appropriation of \$8 million to DHS to increase reimbursement for funeral, burial, and crematory services provided to certain beneficiaries of Work First New Jersey and Supplemental Security Income programs

A-6073/S-4140 (Verrelli/Vitale) – Temporarily waives certain basic life support services crewmember requirements

A-6093/S-4201 (Stanley, Benson, Timberlake/Greenstein, Gopal) – Mandates periodic cancer screening examinations for firefighters enrolled in SHBP

A-6108wGR/S-4247 (DeAngelo, Egan, Houghtaling/Madden) – Updates licenses offered by and certain licensure requirements from Board of Examiners of Electrical Contractors

A-6132/S-4235 (Schaer, Greenwald, Conaway/Singer, Gopal) – Permits volunteer paramedics to operate within mobile intensive care units

A-6133/S-4251 (Bramnick, Mukherji, Downey/Scutari) – Allows certain persons not yet appointed as administrator of estate to pursue lawsuit for damages for wrongful death on behalf of deceased's survivors

A-6150/S-4119 (DeAngelo, Karabinchak, Wirths/Oroho, Pou) – Revises penalties for transfer of certain professional and occupational licenses

A-6159/S-4236 (Coughlin, McKnight/Vitale, Ruiz) – Revises and renames Office of Food Insecurity Advocate

A-6162/S-4246 (Benson, Stanley/Gopal) – Requires certain motor vehicle dealers to maintain certain

requirements for business premises

A-6205/S-4270 (Coughlin, McKeon/Pou) – Amends certain requirements concerning insurance holding companies

A-6206wGR/S-4260 (Wimberly/Diegnan, Oroho) – Codifies right of real estate broker-salespersons and salespersons to define relationship with broker as one between broker and independent contractor or employee and enforces current and previous written agreements addressing relationship

A-6207/S-4222 (Greenwald, Lampitt, Benson/Sweeney) – Eliminates requirement for DOE to set certain tuition rates for approved private schools for students with disabilities in certain cases

A-6208/S-4151 (Mosquera, DeAngelo, Armato/Greenstein, Cruz-Perez) – Appropriates \$60,940,361 from constitutionally dedicated CBT revenues to State Agriculture Development Committee for farmland preservation purposes

A-6209/S-4154 (Freiman, Spearman, Egan/Turner, Oroho) – Appropriates \$18 million from constitutionally dedicated CBT revenues to State Agriculture Development Committee for county planning incentive grants for farmland preservation purposes

A-6210/S-4150 (Taliaferro, Moriarty, Burzichelli/Cruz-Perez, Greenstein) – Appropriates \$4.5 million from constitutionally dedicated CBT revenues to State Agriculture Development Committee for municipal planning incentive grants for farmland preservation purposes

A-6211/S-4149 (Houghtaling, Reynolds-Jackson, Downey/Cruz-Perez, Greenstein) – Appropriates \$440,240 from constitutionally dedicated CBT revenues to State Agriculture Development Committee for grants to certain nonprofit organizations for farmland preservation purposes

A-6212/S-4148 (Jimenez, Swain, Timberlake/Codey, Corrado) – Appropriates \$54.5 million from constitutionally dedicated CBT revenues for recreation and conservation purposes to DEP for State capital and park development projects

A-6213/S-4155 (Kennedy, Carter, Tully/Bateman, Smith) – Appropriates \$49.932 million from constitutionally dedicated CBT revenues to DEP for State acquisition of lands for recreation and conservation purposes, including Blue Acres projects, and Green Acres Program administrative costs

A-6214/S-4153 (Danielsen, Zwicker, Conaway/Greenstein, Smith) – Appropriates \$80,539,578 from constitutionally dedicated CBT revenues and various Green Acres funds to DEP for local government open space acquisition and park development projects

A-6215/S-4152 (Stanley, Murphy, Jasey/Smith, Greenstein) – Appropriates \$14,687,510 to DEP from constitutionally dedicated CBT revenues for grants to certain nonprofit entities to acquire or develop lands for recreation and conservation purposes

A-6246/S-4295 (Karabinchak/Sweeney) – Concerns changes in control of hotels and disruptions of hotel services

A-6257/S-4311 (McKnight/Sweeney, Singleton) – Imposes surcharge on casino hotel occupancies to fund public safety services

A-6262/S-4314 (Burzichelli, Reynolds-Jackson, Mukherji/Sweeney, Oroho, T. Kean) – Permits PERS retiree to return to employment in NJ Legislature after retirement under certain circumstances

A-6263/S-4315 (Burzichelli, Reynolds-Jackson, Mukherji/Sweeney, Oroho, T. Kean) – Appropriates \$2 million to Legislative Services Commission

Governor Murphy pocket vetoed the following bills:

S-73/A-4580 (Bateman, Sarlo/Zwicker, Thomson, McKnight) – Establishes requirements for sale of cottage food products

S-995/A-6172 (Sweeney, A.M. Bucco/Downey, McKnight) – Requires DOLWD and DHS to conduct assessment of community rehabilitation programs and community businesses

S-1934/A-1158 (Sweeney, Pou, Cryan/Freiman, Lopez, Murphy) – Authorizes use of disability benefits for transportation provided by transportation network companies

S-2679/A-1979 (Beach, Smith/Stanley, Lopez, Kennedy) – Requires paint producers to implement or participate in paint stewardship program

S-2768/A-4664 (Singleton, Ruiz/Reynolds-Jackson, Stanley, Sumter) – Authorizes State Chief Diversity Officer to conduct disparity study concerning utilization of minority-owned and women-owned businesses in State procurement process

S-3458/A-6245 (Lagana, Gopal/Coughlin, Jimenez, Mukherji) – Revises out-of-network arbitration process

S-3529/A-5442 (Addiego, Diegnan/DeAngelo, Dancer, Dunn) – Clarifies that member of SPRS may receive accidental disability benefit under certain circumstances

S-3715/A-5804 (Cryan/Quijano, Mukherji) – Modifies certain definitions related to transient accommodation taxes and fees

S-4189/A-6112 (Vitale, Cruz-Perez/Lopez) – Permits PERS retiree to return to elective public office after retirement under certain circumstances

A-1073/S-3432 (Speight, Pintor Marin, McKnight, Timberlake/Ruiz, O'Scanlon) – Establishes requirements to screen certain people who are pregnant and who have given birth for preeclampsia

A-1269/S-3490 (Greenwald, Giblin, Calabrese/Cruz-Perez, Beach) – Eliminates one percent tax on purchasers of Class 4A commercial property transferred for consideration in excess of \$1 million

A-4958/S-3740 (Tully, Armato, Zwicker/Lagana, Oroho) – Provides temporary exemption under sales and use tax for winterizing certain small business operations

A-5334/S-3442 (Lopez, Mazzeo, Stanley/Diegnan, T. Kean) – Requires DOT, NJT, and DHS to study and implement transportation mobility and accessibility improvements for persons with autism and developmental disabilities

A-5484/S-3817 (Dancer, Caputo, Houghtaling/Lagana) – Requires New Jersey Racing Commission to adopt procedures to enforce internal controls; requires annual audit

A-6033/S-4194 (Bramnick/Sweeney, T. Kean) – Classifies golf caddies as independent contractors for purposes of State employment laws

A-6157/S-4202 (Speight, Moen/Ruiz, Beach) – Prohibits circumventing intergovernmental transfer process for law enforcement officers in certain circumstances

