

SENATE, No. 306

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

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 nursing homes; revises reporting requirements for nursing homes.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning nursing homes and supplementing Title 26 of
2 the Revised Statutes.

3

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

6

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

25

26 2. To facilitate enforcement of department rules and requirements
27 concerning nursing home operations, the department shall request and
28 consolidate data concerning nursing homes reported to other State and
29 federal authorities, including the federal Centers for Medicare and
30 Medicaid Services, the Department of Human Services, Medicaid
31 managed care organizations, and the Long-Term Care Ombudsman, in
32 order to identify nursing homes with consistent or repeated
33 performance issues, ongoing compliance issues, or high numbers of
34 substantiated complaints. The department shall make the consolidated
35 data collected under this subsection available upon request to other
36 State and federal entities having jurisdiction over nursing homes in the
37 State.

38

39 3. a. The department shall undertake a review of reporting
40 requirements for nursing homes and shall take steps to standardize
41 and consolidate the reporting requirements for the purpose of:
42 reducing the administrative demand on nursing homes in complying
43 with reporting requirements; developing updated standardized data
44 reporting requirements; and improving the utility of the reported
45 data and the ability to share the data across systems, including, as
46 appropriate, systems maintained by other State departments and
47 agencies, county and local agencies, and federal authorities. The
48 department's review shall include:

- 1 (1) identifying and eliminating duplicative reporting;
 - 2 (2) establishing standardized formats, requirements, protocols,
3 and systems for data reporting, which may include requiring nursing
4 homes to report data in machine-readable formats to facilitate the
5 processing and analysis of reported data;
 - 6 (3) establishing a centralized, cross-agency workgroup to
7 monitor nursing home reporting;
 - 8 (4) assessing State health information technology needs to
9 support technology-enabled and data-driven regulatory oversight
10 across State departments and agencies, anticipate potential uses for
11 the enhanced technologies and systems, enable systems to readily
12 accept and analyze additional data metrics required pursuant to
13 subsection b. of this section, and identify opportunities to centralize
14 and modernize State health data infrastructure, processes, and
15 analytic capabilities;
 - 16 (5) assessing nursing home health information technology needs
17 to support population health management, interoperability, and
18 modernized reporting requirements; and
 - 19 (6) identifying and applying for federal funding to support
20 health information technology infrastructure development.
- 21 b. (1) The department shall require all nursing homes to post
22 on their Internet websites annual owner-certified financial
23 statements along with the nursing home's most recent cost reports
24 submitted to the federal Centers for Medicare and Medicaid
25 Services. The department shall include on its Internet website a
26 link to the page where each nursing home's certified financial
27 statements and cost reports are posted. Nursing homes that are part
28 of a health care system may post financial statements and cost
29 reports pursuant to this paragraph that aggregate the financial data
30 across all nursing homes that are a part of that health care system.
31 A nonprofit nursing home that posts a copy of its most recent
32 Internal Revenue Service Form 990 on its Internet website shall be
33 deemed to have met the requirement for the nursing home to post an
34 owner-certified financial statement on its Internet website pursuant
35 to this paragraph, and the nursing home's posted Internal Revenue
36 Service Form 990 shall be considered an owner-certified financial
37 statement for the purposes of this paragraph and subparagraph (d)
38 of paragraph (1) of subsection f. of this section.
- 39 (2) The department shall require all nursing homes to:
 - 40 (a) participate in the National Health Care Safety Network's
41 Long-term Care Facility Component;
 - 42 (b) complete the network's long-term care facility annual facility
43 survey; and
 - 44 (c) participate in the network's long-term care facility monthly
45 reporting plan, including:
 - 46 (i) the healthcare-associated infection reporting modules for
47 urinary tract infections, the laboratory-identified event module for

1 Clostrum difficile (C.diff) infection and multidrug-resistant
2 organisms, and prevention measures; and
3 (ii) the monthly reporting plan for prevention process measures,
4 including hand hygiene, gloves, and gown adherence.

5 c. The department may develop additional data reporting
6 requirements for nursing homes as are necessary to improve market
7 transparency and facilitate the department's ability to oversee and
8 regulate operations in nursing homes, including, but not limited to,
9 data related to occupancy, operating expenses and other appropriate
10 financial metrics, and utilization and staffing data. In developing
11 additional reporting requirements pursuant to this subsection, the
12 department shall solicit feedback from nursing homes, advocacy
13 groups for nursing home residents and their families, the New
14 Jersey Long-Term Care Ombudsman, and Medicaid managed care
15 organizations concerning proposed new data metrics, methods of
16 maximizing the efficiency of data collection and specification,
17 minimizing duplicative data reporting, and identifying ways to
18 consolidate, automate, or streamline the data required to be reported
19 by State and federal agencies and managed care organizations.

20 d. The department shall establish centralized State protocols for
21 nursing home communications to reduce duplicative outreach and
22 enhance information sharing capabilities.

23 e. The department shall require nursing homes to:

24 (1) post on their Internet websites a link to the dashboard
25 developed and maintained by the department pursuant to paragraph
26 (1) of subsection f. of this section; and
27 (2) designate a staff person who shall be responsible for
28 responding to questions from the public concerning the nursing
29 home, including questions about the nursing home's policies,
30 procedures, and operations. The contact information for members
31 of the public to direct questions and request information shall be
32 posted on the nursing home's Internet website.

33 f. (1) The department shall develop, make available on its
34 Internet website, and update at least quarterly, a data dashboard that
35 provides a separate page or listing for each nursing home licensed
36 in the State with links to the sites where information and data
37 relevant to the nursing home may be found, as well as a description
38 of the data and information that is accessible through each link.
39 The data dashboard shall be searchable by nursing home. The data
40 and information links available through the dashboard shall include,
41 at a minimum, for each nursing home:

42 (a) the nursing home's star rating issued by the federal Centers
43 for Medicare and Medicaid Services;

44 (b) the total number of complaints involving the nursing home,
45 the number and nature of substantiated complaints involving the
46 nursing home, the number of open investigations of complaints
47 involving the nursing home, and the total number of outstanding

- 1 complaints involving the nursing home that have not been
2 investigated or resolved;
- 3 (c) the dates and results of inspections and surveys of the
4 nursing home by the Department of Health, the Department of
5 Human Services, and the federal Centers for Medicare and
6 Medicaid Services, including links to any deficiencies or violations
7 for which the nursing home was cited and to any corrective action
8 plans in place at the nursing home;
- 9 (d) a link to the website where each nursing home's certified
10 financial statements and the nursing home's cost reports submitted
11 to the federal Centers for Medicare and Medicaid Services are
12 posted;
- 13 (e) general staffing levels at the nursing home and, to the extent
14 feasible, rates of compliance with mandatory staffing ratios;
- 15 (f) the frequency with which antipsychotic medication was
16 administered to residents of the nursing home;
- 17 (g) the number of residents who developed a pressure ulcer,
18 including the number of residents who developed multiple pressure
19 ulcers;
- 20 (h) the number of each type of facility-acquired infection at the
21 nursing home as reported to the National Health Care Safety
22 Network's Long-term Care Facility Component pursuant to
23 paragraph (2) of subsection b. of this section; and
- 24 (i) such other data as the department determines appropriate to
25 allow the public to make informed choices when evaluating and
26 selecting a nursing home.
- 27 (2) The department shall prepare and publish on its Internet
28 website annual reports on New Jersey's nursing home system of
29 care.
- 30 (3) For the purposes of making available to the public the data
31 described in subparagraph (h) of paragraph (1) of this subsection,
32 the department shall: request from the National Healthcare Safety
33 Network, on a quarterly basis, data concerning the number of
34 infections reported to the network by New Jersey nursing homes
35 pursuant to paragraph (2) of subsection b. of this section; make the
36 data available on the department's Internet website; and update the
37 data at least quarterly using the most current data obtained from the
38 National Healthcare Safety Network. The data shall provide details
39 concerning the number of reported infections, by infection type, for
40 each nursing home licensed in the State. The department shall
41 additionally provide on its Internet website data concerning the
42 Statewide and national averages for each type of reported infection
43 in nursing homes.
- 44
- 45 4. The department may adopt any regulations necessary to
46 effectuate the purposes of this act on an expedited basis, which
47 regulations shall be effective immediately upon filing with the
48 Office of Administrative Law for a period not to exceed 18 months,

1 and may, thereafter, be amended, adopted or readopted in
2 accordance with the provisions of the "Administrative Procedure
3 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
4

5 5. This act shall take effect on the first day of the 10th month
6 after the date of enactment, except that section 4 of this act shall
7 take effect immediately.
8

9

10

STATEMENT

11

12 This bill provides that a nursing home that is penalized for a
13 subsequent F-level deficiency or higher, as outlined in federal
14 Centers for Medicare and Medicaid Services (CMS) guidelines, in a
15 given three-year period is to be subject to a penalty that is more
16 severe than the penalty imposed for the previous violation. The bill
17 further provides that the DOH may impose additional penalties,
18 sanctions, and corrective measures when a violation involves
19 noncompliance with infection control requirements or results in
20 severe adverse health consequences for a staff member or resident.

21 The bill revises a requirement for nursing homes to report certain
22 facility-acquired infections to the DOH, to instead require that
23 nursing homes: 1) participate in the National Health Care Safety
24 Network's (NHSN) Long-term Care Facility Component; 2)
25 complete the NHSN's long-term care facility annual facility survey;
26 and 3) participate in the NHSN's long-term care facility monthly
27 reporting plan, including the healthcare-associated infection
28 reporting modules for: urinary tract infections, the laboratory-
29 identified event module for Clostrum difficile (C.diff) infection and
30 multidrug-resistant organisms, and prevention measures; and the
31 monthly reporting plan for prevention process measures, including
32 hand hygiene, gloves, and gown adherence. The bill includes a new
33 requirement for the DOH to request from the NHSN, on a quarterly
34 basis, information concerning the number of facility-acquired
35 infections reported to the NHSN by New Jersey nursing homes for
36 the purposes of making this information available to the public
37 through the DOH's data dashboard established under the bill. The
38 information is to include details concerning the number and type of
39 each reportable infection occurring in each nursing home, as well as
40 the Statewide and national averages for each type of reported
41 infection.

42 The bill provides that the DOH may develop additional data
43 reporting requirements to improve transparency. In developing
44 additional data metrics, the bill directs the DOH to solicit feedback
45 from, in addition to representatives of nursing homes and managed
46 care organizations, advocacy groups for nursing home residents and
47 their families and the New Jersey Long-Term Care Ombudsman.

S306 VITALE, MADDEN

1 The bill requires the DOH to establish a dashboard with links to
2 the sites where certain information and data relevant to nursing
3 homes may be found. The bill requires that the dashboard be
4 searchable by nursing home, include a separate listing for each
5 nursing home, and include a description of the data or information
6 available through a given link.

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

13 The bill also provides that a nonprofit nursing home may meet
14 the requirement to annually post an owner-certified financial
15 statement on the nursing home’s internet website by posting a copy
16 of the nursing home’s most recent Internal Revenue Service Form
17 990.