

# SENATE, No. 2769

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MAY 26, 2022

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

### **SYNOPSIS**

Revises reporting requirements for nursing homes concerning financial disclosures and ownership structure.

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning nursing homes and amending P.L.2021, c.95,  
2 P.L.2021, c.457, and P.L.2020, c.89.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 2 of P.L.2021, c.95 (C.26:2H-7.25) is amended to  
8 read as follows:

9 2. a. Prior to transferring ownership of a nursing home, the  
10 prospective new owner shall submit an application to the  
11 Department of Health that meets the requirements of section 3 of  
12 this act. The application shall include the following items:

13 (1) the transfer of ownership fee established by the department;

14 (2) a cover letter stating the applicant's intent to purchase the  
15 nursing home, and identification of the nursing home by name,  
16 address, county, and number and type of licensed beds;

17 (3) a description of the proposed transaction, including:

18 (a) identification of 100 percent of the current owners of the  
19 nursing home;

20 (b) identification of 100 percent of the proposed new owners,  
21 including the names and addresses of all principals and interested  
22 parties; and

23 (c) **[if applicable,]** a copy of **[an]** the applicant's organizational  
24 chart, **[including]** which shall include, as applicable: parent  
25 corporations and wholly-owned subsidiaries; related parties in  
26 which the applicant, or any owner or principal of the applicant, has  
27 an ownership or control interest of five percent or more that will or  
28 are expected to provide a service, a facility, or supplies to the  
29 nursing home in the coming year; unrelated parties that will or are  
30 expected to provide a service, a facility, or supplies to the nursing  
31 home and that will or are expected to be paid more than \$200,000  
32 by the nursing home in the coming year; and entities owned,  
33 operated, or managed by the prospective new principals, including  
34 management companies and property companies, that will or are  
35 expected to be paid more than \$200,000 by the nursing home in the  
36 coming year; and

37 (4) a copy of the agreement of sale and, if applicable, a copy of  
38 any lease and management agreements.

39 The applicant may additionally submit a summary of the  
40 application materials that includes such details concerning the  
41 application as are required by the department, but that omits any  
42 proprietary information in the contracts for the sale or management  
43 of the nursing home, and any home addresses, social security  
44 numbers, or other personal information of any proposed owner,  
45 principal, or interested party. A summary prepared by the applicant

**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.

1 may only be used for the purposes of posting information  
2 concerning the application on the department's Internet website  
3 pursuant to paragraph (1) of subsection d. of this section.

4 b. Information submitted pursuant to subsection a. of this  
5 section or subsection a. of section 3 of this act by an applicant for  
6 transfer of ownership of a nursing home shall not be used in any  
7 adverse licensure action or disciplinary action against the applicant.

8 c. Approval of a transfer of ownership of a nursing home is  
9 contingent upon:

10 (1) a review of the applicant's history of disciplinary actions  
11 assessed in connection with any other facility owned, operated, or  
12 managed by the proposed owners and principals in New Jersey, and  
13 a determination based on that review that approval of the transfer of  
14 ownership will not present a material risk to the health, safety, or  
15 welfare of residents of the nursing home that is the subject of the  
16 transfer application; and

17 (2) payment of all outstanding and issued Medicaid audit claims  
18 and State penalties issued by the department against the current  
19 owner, unless such claims remain under appeal, in which case, if  
20 the claim remains under appeal, the applicant shall submit written  
21 verification that either the applicant or the current owners of the  
22 nursing home will assume responsibility for payment of such audit  
23 recoveries and State penalties at the conclusion of the appeal.

24 d. (1) **【A】** The department shall post on its Internet website  
25 no later than 30 days after the date the department receives the  
26 application:

27 (a) a copy of each transfer of ownership application, or a  
28 summary of the application prepared by the applicant that includes  
29 the names of the proposed owners, principals, and interested parties  
30 **【**, shall be published on the department's Internet website no later  
31 than 30 days after the date the department receives the application**】**;  
32 provided that the department shall redact the materials to the extent  
33 necessary to ensure that no proprietary information in the contracts  
34 for the sale or management of the nursing home, and no home  
35 addresses, social security numbers, or other personal information of  
36 any proposed owner, principal, or interested party, is included in the  
37 materials published on the department's Internet website; and

38 (b) a copy of the applicant's organizational chart submitted  
39 pursuant to subparagraph (c) of paragraph (3) of subsection a. of  
40 this section.

41 (2) Each application for the transfer of ownership of a nursing  
42 home shall be subject to a public comment period that shall  
43 commence not less than 30 days after the date the application is  
44 received by the department, and which comment period shall  
45 remain open for a period of not less than 30 days. The department  
46 shall establish a procedure for acknowledging receipt of public  
47 comments submitted. The text of comments submitted on a transfer  
48 of ownership application shall not be published on the department's

1 Internet website, but shall be considered a government record  
2 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404  
3 (C.47:1A-5 et al.).

4 e. The Department shall complete review of any transfer of  
5 ownership application submitted pursuant to subsection a. of this  
6 section no later than 120 days after the date the application is  
7 received. If a transfer of ownership application has been reviewed  
8 and deemed acceptable, the department shall send an approval letter  
9 to the applicant.

10 f. Within five days after the transaction has been completed,  
11 the applicant shall submit to the department certification of closing  
12 from an attorney or a notarized letter from the applicant stating the  
13 date on which the transaction occurred, along with an executed bill  
14 of sale or assignment. To facilitate the timely transfer of Medicare  
15 and Medicaid provider numbers, the department shall issue the new  
16 license to the applicant no later than 30 days after the date the  
17 notice is received by the department.

18 g. No nursing home may delegate substantial management  
19 control of the nursing home's operations to a third party entity  
20 without providing prior written notice to the department. The  
21 notice provided by the owners of the facility to the department shall  
22 include:

23 (1) a copy of the management agreement;

24 (2) (a) an organizational chart of the third party entity's  
25 proposed management team for the nursing home as well as all  
26 parent corporations and wholly-owned subsidiaries of the third  
27 party entity; related parties in which the third party entity, or any  
28 owner or principal of the third party entity, has an ownership or  
29 control interest of five percent or more that will or are expected to  
30 provide a service, a facility, or supplies to the nursing home in the  
31 coming year; unrelated parties to the third party entity that will or  
32 are expected to provide a service, a facility, or supplies to the  
33 nursing home in the coming year and that will or are expected to be  
34 paid more than \$200,000 by the nursing home in the coming year;  
35 and entities owned, operated, or managed by the third party entity,  
36 including management companies and property companies, that will  
37 or are expected to be paid more than \$200,000 by the nursing home  
38 in the coming year; and

39 (b) a consolidated financial statement for the third party entity  
40 that meets the requirements of subsection c. of section 3 of  
41 P.L.2021, c.95 (C.26:2H-7.26);

42 (3) the names and addresses of all owners, principals, and  
43 interested parties of the third party entity; and

44 (4) a list of any other licensed health care facilities owned,  
45 operated, or managed by the third party entity in any state or  
46 territory of the United States or in the District of Columbia for the  
47 preceding three years, along with **owner-certified** a consolidated  
48 **financial** **statements** statement that meets the requirements of

1 subsection c. of section 3 of P.L.2021, c.95 (C.26:2H-7.26) for each  
2 such facility for the last three years during which the facility was  
3 owned, operated, or managed by the third party entity. If the third  
4 party entity owned, operated, or managed facilities located outside  
5 New Jersey in the preceding three years, the application shall  
6 include disclosures by the third party entity of any enforcement  
7 actions imposed during that period of time against any facility  
8 owned, operated, or managed by the third party entity in any  
9 jurisdiction.

10 h. (1) Upon request by the Commissioner of Health and  
11 subject to the provisions of P.L.1968, c.266 (C.52:9M-1 et seq.), the  
12 State Commission of Investigation shall undertake an investigation  
13 of one or more nursing homes in the State or the entities owning,  
14 operating, or managing one or more nursing homes in the State,  
15 provided that, if the commission determines that the request for an  
16 investigation from Commissioner of Health exceeds the  
17 commission's capacity to perform such investigations, the  
18 commission may advise the Commissioner of Health as to any  
19 requests upon which it finds itself unable to proceed. The State  
20 Commission of Investigation may, at any time, submit to the  
21 Governor, the Commissioners of Health and Human Services, and,  
22 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the  
23 Legislature, recommendations for administrative or legislative  
24 action to improve oversight and transparency in nursing homes.

25 (2) The State Auditor shall undertake a review of the oversight  
26 of nursing homes by the Department of Health and the Department  
27 of Human Services at least once every three years, with particular  
28 focus on compliance with federal inspection requirements,  
29 responses to complaints and response times in reviewing  
30 complaints, and actions taken to follow up on violations affecting  
31 the health, safety, or welfare of residents.

32 i. As used in sections 2 through 4 of this act:

33 "Immediate family member" means a spouse, natural parent,  
34 child, sibling, adopted child, adoptive parent, stepparent, stepchild,  
35 stepsister, stepbrother, father-in-law, mother-in-law, sister-in-law,  
36 brother-in-law, son-in-law, daughter-in-law, grandparent, and  
37 grandchild.

38 "Interested party" means any individual or entity with an interest  
39 of one percent or more but less than five percent in an applicant to  
40 receive a transfer of ownership of a nursing home or the land or  
41 other real property on which a nursing home is located.

42 "Principal" means any individual or entity with an interest of five  
43 percent or more in an applicant to receive a transfer of ownership of  
44 a nursing home or the land or real property on which a nursing  
45 home is located.

46 "Related party" means an organization related to an owner or  
47 principal of an applicant for transfer of ownership of a nursing  
48 home or related to a third party entity to which substantial

1 management control of the nursing home's operations is to be  
2 delegated, or that is under common ownership or control with the  
3 applicant or third party entity, as defined in 42 CFR s.413.17(b).  
4 “Related party” may include, but shall not be limited to: home  
5 offices; management organizations; owners of real estate; entities  
6 that provide staffing, therapy, pharmaceutical, marketing,  
7 administrative management, consulting, and insurance services;  
8 providers of supplies and equipment; financial advisors and  
9 consultants; banking and financial entities; all parent companies,  
10 holding companies, and sister organizations; and any entity in  
11 which an immediate family member of an owner of those  
12 organizations has an ownership interest of five percent or more.

13 “Substantial management control” means the primary authority  
14 to direct the operation and administration of a nursing home,  
15 including, but not limited to, exercising control over resident  
16 admissions, room assignments, staff hiring, staff scheduling, staff  
17 assignments, personnel issues, billing, purchasing, managing  
18 vendor contracts, establishing and enforcing operational protocols  
19 and procedures, resident safety, infection control, communicating  
20 with and reporting to governmental and other entities, and ensuring  
21 compliance with State and federal requirements concerning the  
22 operation of the nursing home.

23 (cf: P.L.2021, c.95, s.2)

24  
25 2. Section 3 of P.L.2021, c.95 (C.26:2H-7.26) is amended to  
26 read as follows:

27 3. a. A transfer of ownership application submitted to the  
28 Department of Health pursuant to subsection a. of section 2 of this  
29 act shall meet the following requirements:

30 (1) In the case of an application to transfer controlling interest  
31 in a nursing home to an individual or entity that has never  
32 previously owned or operated a licensed health care facility in New  
33 Jersey, or for any application to transfer controlling interest in a  
34 nursing home that is submitted within six months after a prior  
35 application for transfer of controlling interest in the nursing home  
36 was approved, the applicant shall:

37 (a) submit a projection of profits and losses for the next three  
38 years and a capital budget projection for the next three years;

39 (b) disclose any licensed health care facilities owned, operated,  
40 or managed by the proposed owners and principals in any state or  
41 territory of the United States or in the District of Columbia in the  
42 preceding three years, along with **【owner-certified financial**  
43 **statements】** a consolidated financial statement that meets the  
44 requirements of subsection c. of this section for each such facility  
45 for the last three years during which the facility was owned,  
46 operated, or managed by the owner or principal and disclosures by  
47 the applicant as to any enforcement actions imposed during that  
48 period of time against any facility owned, operated, or managed by

1 the applicant in any jurisdiction, as well as a consolidated financial  
2 statement that meets the requirements of subsection c. of this  
3 section for the prior year for all related parties in which the  
4 applicant, or any owner or principal of the applicant, has an  
5 ownership or control interest of five percent or more that will or are  
6 expected to provide a service, a facility, or supplies to the nursing  
7 home in the coming year;

8 (c) hold a public hearing on the application no earlier than 30  
9 days after the date the application is received by the department.  
10 Notice of the public hearing shall be published at least seven days  
11 in advance of the public hearing on the Internet websites of the  
12 department, the nursing home, and the applicant, as well as in at  
13 least one newspaper published in each county, if any newspapers  
14 are published therein. The nursing home shall invite the Attorney  
15 General and the Commissioner of Health, or their designated  
16 representatives, to attend the hearing. The transfer of ownership  
17 application may not be approved until after the public hearing is  
18 completed; and

19 (d) consistent with the requirements of subsection b. of this  
20 section, submit to a criminal history record background check of  
21 each proposed owner and principal;

22 (2) In the case of an application to transfer controlling interest  
23 in a nursing home to an individual or entity that has previously  
24 owned or operated a licensed health care facility in New Jersey, the  
25 applicant shall:

26 (a) submit a projection of profits and losses for the next three  
27 years and a capital budget projection for the next three years; and

28 (b) disclose any licensed health care facilities owned, operated,  
29 or managed by the proposed owners and principals in any state or  
30 territory of the United States or in the District of Columbia in the  
31 preceding year, along with **owner-certified financial statements** a  
32 consolidated financial statement that meets the requirements of  
33 subsection c. of this section for each facility owned, operated, or  
34 managed by the proposed owners and principals in New Jersey for  
35 the last year during which the facility was owned, operated, or  
36 managed by owner or principal, as well as a consolidated financial  
37 statement that meets the requirements of subsection c. of this  
38 section for the prior year for all related parties in which the  
39 applicant, or any owner or principal of the applicant, has an  
40 ownership or control interest of five percent or more that will or are  
41 expected to provide a service, a facility, or supplies to the nursing  
42 home in the coming year;

43 (3) In the case of an application to transfer an interest of five  
44 percent or more, but less than a controlling interest, in a nursing  
45 home to an individual or entity that has never previously owned or  
46 operated a licensed health care facility in New Jersey, the applicant  
47 shall:

1 (a) disclose any licensed health care facilities owned, operated,  
2 or managed by the proposed owners and principals in any state or  
3 territory of the United States or in the District of Columbia in the  
4 preceding year, submit a consolidated financial statement that meets  
5 the requirements of subsection c. of this section for each such  
6 facility for the last year during which the facility was owned,  
7 operated, or managed by the owner or principal, and disclose any  
8 enforcement actions imposed during the preceding year against any  
9 facility owned, operated, or managed by the applicant in any  
10 jurisdiction, as well as a consolidated financial statement that meets  
11 the requirements of subsection c. of this section for the prior year  
12 for all related parties in which the applicant, or any owner or  
13 principal of the applicant, has an ownership or control interest of  
14 five percent or more that will or are expected to provide a service, a  
15 facility, or supplies to the nursing home in the coming year; and

16 (b) consistent with the requirements of subsection b. of this  
17 section, submit to a criminal history record background check of  
18 each proposed owner and principal; **[and]**

19 (4) In the case of an application to transfer an interest of five  
20 percent or more, but less than a controlling interest, in a nursing  
21 home to an individual or entity that has previously owned or  
22 operated a licensed health care facility in New Jersey, the applicant  
23 shall disclose any licensed health care facilities owned, operated, or  
24 managed by the proposed owners and principals in any state or  
25 territory of the United States or in the District of Columbia in the  
26 preceding year, submit a consolidated financial statement that meets  
27 the requirements of subsection c. of this section and disclose any  
28 enforcement actions imposed during the preceding year against any  
29 facility owned, operated, or managed by the applicant in any  
30 jurisdiction, as well as a consolidated financial statement that meets  
31 the requirements of subsection c. of this section for the prior year  
32 for all related parties in which the applicant, or any owner or  
33 principal of the applicant, has an ownership or control interest of  
34 five percent or more that will or are expected to provide a service, a  
35 facility, or supplies to the nursing home in the coming year; and

36 (5) In the case of an application to transfer an interest of less  
37 than five percent in a nursing home, the applicant shall:

38 (a) disclose any licensed health care facilities owned, operated,  
39 or managed by the proposed owners and principals in any state or  
40 territory of the United States or in the District of Columbia in the  
41 preceding year; and

42 (b) if the applicant has never previously owned or operated a  
43 licensed health care facility in New Jersey, consistent with the  
44 requirements of subsection b. of this section, submit to a criminal  
45 history record background check of each proposed owner and  
46 principal.

47 b. (1) An applicant for a transfer of ownership of a nursing home  
48 who is required to complete a criminal history record background



1 check pursuant to subsection a. of this section shall submit to being  
2 fingerprinted in accordance with applicable State and federal laws,  
3 rules, and regulations. An applicant shall bear the cost for the  
4 criminal history record background check, including all costs of  
5 administering and processing the check.

6 (2) For the purposes of subsection a. of this section, the  
7 department is authorized to exchange fingerprint data with and  
8 receive criminal history record background information from the  
9 Division of State Police and the Federal Bureau of Investigation  
10 consistent with the provisions of applicable federal and State laws,  
11 rules, and regulations. Upon receipt of such notification, the  
12 department shall make a determination as to whether transferring all  
13 or part of the ownership of a nursing home to the applicant would  
14 constitute a material risk to the health, safety, or welfare of  
15 residents of the nursing home, which shall include determining  
16 whether any owner or principal has a prior conviction involving  
17 fraud or any other criminal offense of a financial nature, or a prior  
18 conviction that may bear on the health and safety of residents of a  
19 long-term care facility, including, but not limited to, a prior  
20 conviction involving abuse, neglect, or exploitation of any person.

21 (3) The Division of State Police shall promptly notify the  
22 department in the event that an individual who was the subject of a  
23 criminal history record background check conducted pursuant to  
24 subsection a. of this section is convicted of a crime or offense in  
25 this State after the date the background check was performed. Upon  
26 receipt of that notification, the department shall make a  
27 determination regarding the continued eligibility for the individual  
28 to be an owner or principal of a nursing home.

29 c. A consolidated financial statement required pursuant to  
30 subsection a. of this section, subsection g. of section 2 of P.L.2021,  
31 c.95 (C.26:2H-7.25), or section 3 of P.L.2021, c.457 (C.26:2H-  
32 46.3), shall meet the following requirements:

33 (1) the statement shall be audited by a certified public  
34 accountant in accordance with generally accepted accounting  
35 principles and with the Financial Accounting Standards Board's  
36 financial reporting requirements, with financial statements prepared  
37 using the accrual basis; and

38 (2) the statement shall include:

39 (a) a balance sheet detailing the assets, liabilities, and net worth  
40 that the end of the reporting entity's fiscal year;

41 (b) a statement of income, expenses, and operating surplus or  
42 deficit for the annual fiscal period, and a statement of ancillary  
43 utilization and patient census;

44 (c) a statement detailing patient revenue by payer, including, but  
45 not limited to, Medicare, NJ FamilyCare, and other payers, and  
46 revenue center;

47 (d) a statement of cash flows, including, but not limited to,  
48 ongoing and new capital expenditures and depreciation; and

1     (e) a combined financial statement that includes all entities  
2 reported in the consolidated financial statement, unless the  
3 reporting entity is prohibited from including a combined financial  
4 statement in a consolidated financial statement pursuant to State or  
5 federal law or regulation or national accounting standard, in which  
6 case the reporting entity shall disclose to the department the  
7 applicable state or federal law or regulation or national accounting  
8 standard.

9     (cf: P.L.2021, c.95, s.3)

10  
11     3. Section 3 of P.L.2021, c.457 (C.26:2H-46.3) is amended to  
12 read as follows:

13     3. a. The department shall undertake a review of reporting  
14 requirements for nursing homes and shall take steps to standardize  
15 and consolidate the reporting requirements for the purpose of:  
16 reducing the administrative demand on nursing homes in complying  
17 with reporting requirements; developing updated standardized data  
18 reporting requirements; and improving the utility of the reported  
19 data and the ability to share the data across systems, including, as  
20 appropriate, systems maintained by other State departments and  
21 agencies, county and local agencies, and federal authorities. The  
22 department's review shall include:

23         (1) identifying and eliminating duplicative reporting;

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

28         (3) establishing a centralized, cross-agency workgroup to  
29 monitor nursing home 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 required pursuant to  
35 subsection b. of this section, and identify opportunities to centralize  
36 and modernize State health data infrastructure, processes, and  
37 analytic capabilities;

38         (5) assessing nursing home health information technology needs  
39 to support population health management, interoperability, and  
40 modernized reporting requirements; and

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

43     b. (1) The department shall require **【all】** each nursing  
44 **【homes】** home to annually prepare and submit to the department a  
45 consolidated financial statement that meets the requirements of  
46 paragraph (4) of this subsection, and a consolidated financial  
47 statement that meets the requirements of paragraph (4) of this  
48 subsection for any third party entity exercising substantial

1 management control over the nursing home and for all related  
2 parties in which the licensee, or any owner or principal of the  
3 licensee, has an ownership or control interest of five percent or  
4 more that provides a service, a facility, or supplies to the nursing  
5 home. The nursing home shall, at a minimum, post and maintain on  
6 **【their】** its Internet 【websites annual owner-certified financial  
7 statements along with the nursing home's most recent cost reports  
8 submitted to the federal Centers for Medicare and Medicaid  
9 Services】 website the nursing home's most recent consolidated  
10 financial statement the most recent consolidated financial  
11 statements for any third party entity exercising substantial  
12 management control over the nursing home and for all related  
13 parties in which the licensee, or any owner or principal of the  
14 licensee, has an ownership or control interest of five percent or  
15 more that provides a service, a facility, or supplies to the nursing  
16 home. The department shall include on its Internet website a link to  
17 the page where each nursing 【home's certified financial statements  
18 and cost reports are】 home has posted the consolidated financial  
19 statements required under this paragraph, and shall make all  
20 consolidated financial statements submitted to the department  
21 available to the public upon request. 【Nursing homes that are part  
22 of a health care system may post financial statements and cost  
23 reports pursuant to this paragraph that aggregate the financial data  
24 across all nursing homes that are a part of that health care system.  
25 A nonprofit nursing home that posts a copy of its most recent  
26 Internal Revenue Service Form 990 on its Internet website shall be  
27 deemed to have met the requirement for the nursing home to post an  
28 owner-certified financial statement on its Internet website pursuant  
29 to this paragraph, and the nursing home's posted Internal Revenue  
30 Service Form 990 shall be considered an owner-certified financial  
31 statement for the purposes of this paragraph and subparagraph (d)  
32 of paragraph (1) of subsection f. of this section.】

33 (2) The department shall require **【all】** each nursing **【homes】**  
34 home to:

35 (a) participate in the National Health Care Safety Network's  
36 Long-term Care Facility Component;

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

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

41 (i) the healthcare-associated infection reporting modules for  
42 urinary tract infections, the laboratory-identified event module for  
43 Clostrum difficile (C.diff) infection and multidrug-resistant  
44 organisms, and prevention measures; and

45 (ii) the monthly reporting plan for prevention process measures,  
46 including hand hygiene, gloves, and gown adherence.

1       (3) No later than 60 days after the effective date of this act, and  
2 annually thereafter, the department shall require each nursing home  
3 to submit to the department, and post on the nursing home's  
4 Internet website:

5       (a) information identifying 100 percent of the current owners of  
6 the nursing home including all principals and interested parties; and

7       (b) a copy of the nursing home's organizational chart, which  
8 shall include, as applicable: parent corporations and wholly-owned  
9 subsidiaries; third party entities exercising substantial management  
10 control over the nursing home; related parties in which the licensee,  
11 or any owner or principal of the licensee, has an ownership or  
12 control interest of five percent or more that provided a service, a  
13 facility, or supplies to the nursing home in the preceding year;  
14 unrelated parties that provided a service, a facility, or supplies to  
15 the nursing home in the preceding year that were paid more than  
16 \$200,000 by the nursing home in the preceding year; and entities  
17 owned, operated, or managed by the owners and principals,  
18 including management companies and property companies, that  
19 were paid more than \$200,000 by the nursing home in the preceding  
20 year.

21       (4) A consolidated financial statement required pursuant to  
22 paragraph (1) of this subsection shall meet the following  
23 requirements:

24       (a) the statement shall be audited by a certified public  
25 accountant in accordance with generally accepted accounting  
26 principles and with the Financial Accounting Standards Board's  
27 financial reporting requirements, with financial statements prepared  
28 using the accrual basis; and

29       (b) the statement shall include:

30       (i) a balance sheet detailing the assets, liabilities, and net worth  
31 that the end of the reporting entity's fiscal year;

32       (ii) a statement of income, expenses, and operating surplus or  
33 deficit for the annual fiscal period, and a statement of ancillary  
34 utilization and patient census;

35       (iii) a statement detailing patient revenue by payer, including, but  
36 not limited to, Medicare, NJ FamilyCare, and other payers, and  
37 revenue center;

38       (iv) a statement of cash flows, including, but not limited to,  
39 ongoing and new capital expenditures and depreciation; and

40       (v) a combined financial statement that includes all entities  
41 reported in the consolidated financial statement, unless the  
42 reporting entity is prohibited from including a combined financial  
43 statement in a consolidated financial statement pursuant to State or  
44 federal law or regulation or national accounting standard, in which  
45 case the reporting entity shall disclose to the department the  
46 applicable state or federal law or regulation or national accounting  
47 standard.

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

16 d. The department shall establish centralized State protocols for  
17 nursing home communications to reduce duplicative outreach and  
18 enhance information sharing capabilities.

19 e. The department shall require nursing homes to:

20 (1) post on their Internet websites a link to the dashboard  
21 developed and maintained by the department pursuant to paragraph  
22 (1) of subsection f. of this section; and

23 (2) designate a staff person who shall be responsible for  
24 responding to questions from the public concerning the nursing  
25 home, including questions about the nursing home's policies,  
26 procedures, and operations. The contact information for members  
27 of the public to direct questions and request information shall be  
28 posted on the nursing home's Internet website.

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

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

40 (b) the total number of complaints involving the nursing home,  
41 the number and nature of substantiated complaints involving the  
42 nursing home, the number of open investigations of complaints  
43 involving the nursing home, and the total number of outstanding  
44 complaints involving the nursing home that have not been  
45 investigated or resolved;

46 (c) the dates and results of inspections and surveys of the  
47 nursing home by the Department of Health, the Department of  
48 Human Services, and the federal Centers for Medicare and

1 Medicaid Services, including links to any deficiencies or violations  
2 for which the nursing home was cited and to any corrective action  
3 plans in place at the nursing home;

4 (d) a link to the website where the consolidated financial  
5 statements each nursing [home's certified financial statements and  
6 the nursing home's cost reports submitted to the federal Centers for  
7 Medicare and Medicaid Services are posted] home is required to  
8 submit;

9 (e) general staffing levels at the nursing home and, to the extent  
10 feasible, rates of compliance with mandatory staffing ratios;

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

13 (g) the number of residents who developed a pressure ulcer,  
14 including the number of residents who developed multiple pressure  
15 ulcers;

16 (h) the number of each type of facility-acquired infection at the  
17 nursing home as reported to the National Health Care Safety  
18 Network's Long-term Care Facility Component pursuant to  
19 paragraph (2) of subsection b. of this section; [and]

20 (i) a link to the website where each nursing home has posted its  
21 ownership information and organizational chart pursuant to  
22 paragraph (3) of subsection b. of this section; and

23 (j) such other data as the department determines appropriate to  
24 allow the public to make informed choices when evaluating and  
25 selecting a nursing home.

26 (2) The department shall prepare and publish on its Internet  
27 website annual reports on New Jersey's nursing home system of  
28 care.

29 (3) For the purposes of making available to the public the data  
30 described in subparagraph (h) of paragraph (1) of this subsection,  
31 the department shall: request from the National Healthcare Safety  
32 Network, on a quarterly basis, data concerning the number of  
33 infections reported to the network by New Jersey nursing homes  
34 pursuant to paragraph (2) of subsection b. of this section; make the  
35 data available on the department's Internet website; and update the  
36 data at least quarterly using the most current data obtained from the  
37 National Healthcare Safety Network. The data shall provide details  
38 concerning the number of reported infections, by infection type, for  
39 each nursing home licensed in the State. The department shall  
40 additionally provide on its Internet website data concerning the  
41 Statewide and national averages for each type of reported infection  
42 in nursing homes.

43 g. As used in this section:

44 "Immediate family member" means a spouse, natural parent,  
45 child, sibling, adopted child, adoptive parent, stepparent, stepchild,  
46 stepsister, stepbrother, father-in-law, mother-in-law, sister-in-law,  
47 brother-in-law, son-in-law, daughter-in-law, grandparent, and  
48 grandchild.

1       "Principal" means any individual or entity with an interest of five  
2 percent or more in a licensed nursing home or the land or real  
3 property on which a nursing home is located.

4       "Related party" means an organization related to the owners or  
5 principals of a licensed nursing home or related to a third party  
6 entity exercising substantial management control of the nursing  
7 home's operations, or that is under common ownership or control  
8 with the nursing home or third party entity, as defined in 42 CFR  
9 s.413.17(b). "Related party" may include, but shall not be limited  
10 to: home offices; management organizations; owners of real estate;  
11 entities that provide staffing, therapy, pharmaceutical, marketing,  
12 administrative management, consulting, and insurance services;  
13 providers of supplies and equipment; financial advisors and  
14 consultants; banking and financial entities; all parent companies,  
15 holding companies, and sister organizations; and any entity in  
16 which an immediate family member of an owner of those  
17 organizations has an ownership interest of five percent or more.

18       "Substantial management control" means the primary authority  
19 to direct the operation and administration of a nursing home,  
20 including, but not limited to, exercising control over resident  
21 admissions, room assignments, staff hiring, staff scheduling, staff  
22 assignments, personnel issues, billing, purchasing, managing  
23 vendor contracts, establishing and enforcing operational protocols  
24 and procedures, resident safety, infection control, communicating  
25 with and reporting to governmental and other entities, and ensuring  
26 compliance with State and federal requirements concerning the  
27 operation of the nursing home.

28 (cf: P.L.2021, c.457, s.3)

29

30       4. Section 3 of P.L.2020, c.89 (C.30:4D-7cc) is amended to  
31 read as follows:

32       3. a. The Commissioner of Human Services shall submit  
33 recommendations to the Legislature, pursuant to section 2 of  
34 P.L.1991, c.164 (C.52:14-19.1), for legislative approval of any  
35 reimbursement rate increases as may be needed to comply with  
36 minimum wage requirements for long-term care facility direct care  
37 staff as provided in subsection i. of section 5 of P.L.1966, c.113  
38 (C.34:11-56a4). The commissioner may recommend that increases  
39 for nursing homes be tied to improvements in specific quality and  
40 safety metrics.

41       b. No later than 90 days after the effective date of this act, the  
42 Commissioner of Human Services shall conduct a review of the  
43 Department of Human Services' Medicaid value-based payment  
44 strategy, including the Quality Incentive Payment Program, to  
45 ensure incentives provided under the strategy focus on priority  
46 metrics for quality improvement, and shall review and determine  
47 whether incentives are an effective means of driving improvements  
48 in quality of care and resident and staff safety in nursing homes.

1 c. (1) The Commissioner of Human Services shall establish a  
2 direct care ratio reporting and rebate requirement, which shall take  
3 effect no later than July 1, 2021, pursuant to which nursing homes  
4 shall be required to report total revenues collected, along with the  
5 portion of revenues that are expended on direct care staff wages,  
6 other staff wages, taxes, administrative costs, investments in  
7 improvements to the facility's equipment and physical plant, profits,  
8 and any other factors as the commissioner shall require. At the  
9 commissioner's discretion, the reporting requirements of this  
10 paragraph may be met by the nursing home submitting an audited  
11 consolidated financial statement that meets the requirements of  
12 paragraph (4) of subsection b. of section 3 of P.L.2021, c.457  
13 (C.26:2H-46.3).

14 (2) The direct care ratio shall require 90 percent, or such higher  
15 percentage as the commissioner may establish by regulation, of a  
16 facility's aggregate revenue in a fiscal year to be expended on the  
17 direct care of residents. The commissioner shall determine which  
18 components of the reporting requirements shall be attributed to  
19 direct patient care, administrative costs, and profits. The  
20 commissioner may adjust the components of the ratio as appropriate  
21 based on current financial information reported by nursing homes  
22 and overall performance by the nursing home related to patient  
23 safety and quality of care.

24 (3) The commissioner or an entity designated by the  
25 commissioner may conduct an audit of the financial information  
26 reported by nursing homes pursuant to this section to ensure the  
27 accuracy of the information reported and compliance with the  
28 requirements of this section, as well as to identify and recover any  
29 payments that exceed the allowed cost ratio for administrative costs  
30 and profits.

31 (4) In each case where the direct care loss ratio fails to  
32 substantially comply with the ratio requirement established pursuant  
33 to this subsection, the nursing home shall issue a pro rata dividend  
34 or credit to the State and to all individuals and entities making  
35 payments to the nursing home for resident services in an amount  
36 sufficient to assure that the aggregate amount paid for direct care  
37 staff wages, other staff wages, taxes, administrative costs,  
38 investments in improvements to the nursing home's equipment and  
39 physical plant, profits, and other factors, plus the amount of the  
40 dividends and credits, equals the mandatory ratio for the previous  
41 calendar year. The pro rata dividend or credit shall be equal to the  
42 percentage of payments made by the payor to the nursing home in  
43 the previous calendar year out of all payments made to the nursing  
44 home for services provided in the previous calendar year from all  
45 payment sources. All dividends and credits shall be distributed by  
46 June 30 of the year following the calendar year in which the ratio  
47 requirements were not satisfied.

48 (cf: P.L.2020, c.89, s.3)



1       5. This act shall take effect 60 days after the date of enactment,  
2 except that section 3 of this act shall take effect 60 days after the  
3 date of enactment or immediately upon the effective date of section  
4 3 of P.L.2021, c.495 (C.26:2H-46.3), whichever occurs later.

5  
6  
7                               STATEMENT

8  
9       This bill revises certain reporting requirements for nursing  
10 homes.

11       Specifically, the bill requires nursing home owners and  
12 operators, as well as applicants for a transfer of ownership of a  
13 nursing home, to provide information identifying 100 percent of the  
14 ownership of the nursing home, including all principals and  
15 interested parties, as well as an organizational chart identifying:  
16 parent corporations and wholly-owned subsidiaries; principals that  
17 provide a service, facility, or supplies to the nursing home;  
18 unrelated parties that provide a service, facility, or supplies to the  
19 nursing home that are paid \$200,000 or more by the nursing home;  
20 and facilities owned, operated, or managed by the owner, including  
21 management companies and property companies, paid more than  
22 \$200,000 by the nursing home. In the case of an applicant for a  
23 transfer of ownership of a nursing home, these disclosures will be  
24 based on expectations with regard to services, facilities, supplies,  
25 and payments.

26       The bill additionally revises the financial disclosures required for  
27 nursing home owners and operators, as well as applicants for a  
28 transfer of ownership and entities seeking to delegate management  
29 of the nursing home to a third party, to require the submission of a  
30 consolidated financial statement that:

31       1) is reviewed or audited by a certified public accountant in  
32 accordance with generally accepted accounting principles; and

33       2) includes: a balance sheet detailing the assets, liabilities, and  
34 net worth that the end of the reporting entity's fiscal year; a  
35 statement of income, expenses, and operating surplus or deficit for  
36 the annual fiscal period, and a statement of ancillary utilization and  
37 patient census; a statement detailing patient revenue by payer,  
38 including, but not limited to, Medicare, NJ FamilyCare, and other  
39 payers, and revenue center; a statement of cash flows, including,  
40 but not limited to, ongoing and new capital expenditures and  
41 depreciation; and a combined financial statement that includes all  
42 entities reported in the consolidated financial report.

43       For applicants for a transfer of ownership and entities seeking to  
44 delegate management of a nursing home, this information will be  
45 included with certain materials that current law requires be  
46 provided to the Department of Health (DOH); in the case of a  
47 transfer of ownership application, the information will be made  
48 available on the DOH's Internet website, with certain personal

1 identifying and proprietary material excised. For current nursing  
2 home owners and operators, the required financial information and  
3 organizational chart is to be annually posted on the nursing home's  
4 internet website, submitted to the DOH, and linked through the  
5 DOH's website.

6 Current law provides that the financial disclosures required for a  
7 transfer of ownership application vary, depending on whether the  
8 transfer involves a controlling interest in the nursing home and  
9 whether the prospective new owner has previously owned, operated,  
10 or managed a nursing home in New Jersey. The bill revises these  
11 requirements to require audited consolidated financial statements  
12 for all prospective new owners and operators who will be acquiring  
13 an interest of five percent or more in the nursing home. The bill  
14 removes an existing requirement for nursing homes to post the cost  
15 reports submitted to the federal Centers for Medicare and Medicaid  
16 Services on their Internet websites.

17 Current law allows nonprofit nursing homes to submit their  
18 Internal Revenue Service Form 990 in lieu of an owner-certified  
19 financial statement. The bill removes this language, thereby  
20 requiring nonprofit nursing homes to submit the same audited  
21 consolidated financial statements as are required of for profit  
22 nursing homes under the bill.

23 The bill grants the Commissioner of Human Services the  
24 discretion to accept a consolidated financial statement that meets  
25 the requirements of the bill as satisfying the requirement that  
26 nursing homes report revenues and expenditures for the purposes of  
27 establishing and enforcing a direct care loss ratio, as required under  
28 current law.