

[First Reprint]

SENATE, No. 2769

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MAY 26, 2022

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Co-Sponsored by:

Senators Cruz-Perez and Ruiz

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on June 6, 2022, with amendments.



(Sponsorship Updated As Of: 6/16/2022)

1 AN ACT concerning nursing homes ¹**[and]** ¹ amending P.L.2021,
 2 c.95, P.L.2021, c.457, and P.L.2020, c.89 ¹, and amending and
 3 supplementing P.L.1977, c.237¹.
 4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*
 7

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

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

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

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

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

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

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

24 (c) **[if applicable,]** a copy of **[an]** the applicant's organizational
 25 chart, **[including]** which shall include, as applicable: parent
 26 corporations and wholly-owned subsidiaries; related parties in
 27 which the applicant, or any owner or principal of the applicant, has
 28 an ownership or control interest of five percent or more that will or
 29 are expected to provide a service, a facility, or supplies to the
 30 nursing home in the coming year; ¹and¹ unrelated parties that will
 31 or are expected to provide a service, a facility, or supplies to the
 32 nursing home and that will or are expected to be paid more than
 33 \$200,000 by the nursing home in the coming year ¹; and entities
 34 owned, operated, or managed by the prospective new principals,
 35 including management companies and property companies, that will
 36 or are expected to be paid more than \$200,000 by the nursing home
 37 in the coming year]¹ ; and

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

40 The applicant may additionally submit a summary of the
 41 application materials that includes such details concerning the
 42 application as are required by the department, but that omits any
 43 proprietary information in the contracts for the sale or management
 44 of the nursing home, and any home addresses, social security

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:

¹Senate SHH committee amendments adopted June 6, 2022.

1 numbers, or other personal information of any proposed owner,
2 principal, or interested party. A summary prepared by the applicant
3 may only be used for the purposes of posting information
4 concerning the application on the department's Internet website
5 pursuant to paragraph (1) of subsection d. of this section.

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

10 c. Approval of a transfer of ownership of a nursing home is
11 contingent upon:

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

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

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

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

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

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

1 comments submitted. The text of comments submitted on a transfer
2 of ownership application shall not be published on the department's
3 Internet website, but shall be considered a government record
4 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404
5 (C.47:1A-5 et al.).

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

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

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

25 (1) a copy of the management agreement;

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

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

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

46 (4) a list of any other licensed health care facilities owned,
47 operated, or managed by the third party entity in any state or
48 territory of the United States or in the District of Columbia for the

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

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

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

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

35 "Immediate family member" means a spouse, natural parent,
36 child, sibling, 'first cousin, aunt, uncle,' adopted child, adoptive
37 parent, stepparent, stepchild, stepsister, stepbrother, father-in-law,
38 mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-
39 in-law, grandparent, and grandchild.

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

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

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

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

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

27
28 2. Section 3 of P.L.2021, c.95 (C.26:2H-7.26) is amended to
29 read as follows:

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

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

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

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

1 operated, or managed by the owner or principal and disclosures by
2 the applicant as to any enforcement actions imposed during that
3 period of time against any facility owned, operated, or managed by
4 the applicant in any jurisdiction, as well as a consolidated financial
5 statement that meets the requirements of subsection c. of this
6 section for the prior year for all related parties in which the
7 applicant, or any owner or principal of the applicant, has an
8 ownership or control interest of five percent or more that will or are
9 expected to provide a service, a facility, or supplies to the nursing
10 home in the coming year;

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

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

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

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

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

46 (3) In the case of an application to transfer an interest of five
47 percent or more, but less than a controlling interest, in a nursing
48 home to an individual or entity that has never previously owned or

1 operated a licensed health care facility in New Jersey, the applicant
2 shall:

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

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

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

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

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

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

1 b. (1) An applicant for a transfer of ownership of a nursing
2 home who is required to complete a criminal history record
3 background check pursuant to subsection a. of this section shall
4 submit to being fingerprinted in accordance with applicable State
5 and federal laws, rules, and regulations. An applicant shall bear the
6 cost for the criminal history record background check, including all
7 costs of administering and processing the check.

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

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

31 c. A consolidated financial statement required pursuant to
32 subsection a. of this section, subsection g. of section 2 of P.L.2021,
33 c.95 (C.26:2H-7.25), or section 3 of P.L.2021, c.457 (C.26:2H-
34 46.3), shall meet the following requirements:

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

40 (2) the statement shall include:

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

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

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

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

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

11 (cf: P.L.2021, c.95, s.3)

12
13 ¹³. Section 1 of P.L.1977, c.237 (C.26:2H-32) is amended to
14 read as follows:

15 1. The following words or phrases, as used in P.L.1977, c.237
16 (C.26:2H-32 et seq.), shall have the following meanings, unless the
17 context otherwise requires:

18 a. "Nursing home" means a **【**facility providing therein nursing
19 care to persons who are sick, invalid, convalescing, or who have
20 disabilities, in addition to providing lodging and board or health-
21 related service, or any combination of the foregoing and in addition
22 thereto, providing nursing care and health-related service, or either
23 of them, to persons who are not occupants of the facility**】** nursing
24 home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

25 b. "Affiliate" means (1) with respect to a partnership, each
26 partner thereof; (2) with respect to a corporation, each officer,
27 director, principal stockholder, or controlling person thereof; (3)
28 with respect to a natural person, (a) each member of said person's
29 immediate family, (b) each partnership and each partner thereof of
30 which said person or any affiliate of said person is a partner, and (c)
31 each corporation in which said person or any affiliate of said person
32 is an officer, director, principal stockholder, or controlling person.

33 c. "Controlling person" of any corporation, partnership, or
34 other entity means any person who has the ability, directly or
35 indirectly, to direct or cause the direction of the management or
36 policies of said corporation, partnership, or other entity.

37 d. "Immediate family member" **【**of any person includes**】** means
38 **【each】** a spouse, natural parent, child, **【**spouse, brother, sister,**】**
39 sibling, first cousin, aunt **【and】** , uncle **【**of such person, whether
40 such relationship arises by birth, marriage or adoption, as well as
41 the person's domestic partner or partner in civil union of that person
42 as defined in section 3 of P.L.2003, c.246 (C.26:8A-3) or section 2
43 of P.L.2006, c.103, (C.37:1-29) and the partner's parent and adult
44 child**】** adoptive sibling, adoptive parent, stepparent, stepchild,
45 stepsister, stepbrother, father-in-law, mother-in-law, sister-in-law,
46 brother-in-law, son-in-law, daughter-in-law, grandparent, and
47 grandchild.

1 e. "Principal stockholder" of a corporation means any person
2 who beneficially owns, holds or has the power to vote, 10% or more
3 of any class of securities issued by said corporation.

4 f. "Interested party" means any individual or entity with an
5 interest of one percent or more but less than five percent in a
6 nursing home or the land or other real property on which a nursing
7 home is located.

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

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

25 i. "Substantial management control" means the primary
26 authority to direct the operation and administration of a nursing
27 home, including, but not limited to, exercising control over resident
28 admissions, room assignments, staff hiring, staff scheduling, staff
29 assignments, personnel issues, billing, purchasing, managing
30 vendor contracts, establishing and enforcing operational protocols
31 and procedures, resident safety, infection control, communicating
32 with and reporting to governmental and other entities, and ensuring
33 compliance with State and federal requirements concerning the
34 operation of the nursing home.¹

35 (cf: P.L.2017, c.131, s.97)

36
37 ^{14.} Section 2 of P.L.1977, c.237 (C.26:2H-33) is amended to
38 read as follows:

39 2. Every nursing home operating in the State shall, within 90
40 days after the end of its fiscal year, file an annual report with the
41 State Commissioner of Health. Such annual report shall be in such
42 form and shall contain such information as shall be prescribed by
43 the commissioner, including the following:

44 a. **【A balance sheet of the nursing home as of the end of such**
45 **fiscal year, setting forth assets and liabilities at such date including**
46 **all capital, surplus, reserve, depreciation and similar accounts;】**
47 (deleted by amendment, P.L. , c.) (pending before the
48 Legislature as this bill)

- 1 b. **【A statement of operations of the nursing home for such**
2 fiscal year, setting forth all revenues, expenses, taxes, extraordinary
3 items and other credits or charges;】 (deleted by amendment, P.L. ,
4 c.) (pending before the Legislature as this bill)
- 5 c. The name and address of each of the following persons:
- 6 (1) The operator of the nursing home and any third party entities
7 other than the owners or principals of the nursing home exercising
8 substantial management control over the nursing home;
- 9 (2) Any person who, directly or indirectly, beneficially owns
10 any interest in the land on which the nursing home is located;
- 11 (3) Any person who, directly or indirectly, beneficially owns
12 any interest in the building in which the nursing home is located;
- 13 (4) Any person who, directly or indirectly, beneficially owns a
14 10% or greater interest in any mortgage, note, deed of trust or other
15 obligation secured in whole or in part by the land on which or
16 building in which the nursing home is located;
- 17 (5) Any person who directly or indirectly, has any interest as
18 lessor or lessee in any lease or sublease of the land on which or the
19 building in which the nursing home is located;
- 20 (6) Any person who, directly or indirectly, beneficially owns a
21 10% or greater interest in any mortgage, note, deed of trust or other
22 obligation which, although not secured by the land on which or
23 building in which the nursing home is located, is considered an
24 outstanding liability on the books of the nursing home and was
25 executed to finance directly or indirectly the purchase of the nursing
26 home, land, building, lease or sublease pertaining thereto;
- 27 d. If the nursing home or any person named in response to
28 subsection c. is a partnership, then the name and address of each
29 partner;
- 30 e. If the nursing home or any person named in response to
31 subsection c. is a corporation, other than a corporation whose shares
32 are traded on a national securities exchange or a commercial bank,
33 savings bank or savings and loan association, then the name and
34 address of each officer, director, principal shareholder and
35 controlling person of such corporation;
- 36 f. If any corporation named in response to subsection c. is a
37 corporation whose shares are traded on a national securities
38 exchange or which is a commercial bank, savings bank or savings
39 and loan association, then the name and address of the principal
40 executive officers and each director, principal stockholder and
41 controlling person of said corporation;
- 42 g. If the nursing home paid or received an aggregate of
43 \$2,500.00 or more during the fiscal year in connection with
44 transactions with any person named in response to subsections c.,
45 d., e., or f., or any affiliate of said person, a description of the
46 transactions, naming the parties thereto and describing the
47 relationships which require the transactions to be described and the

1 goods, services, payment, or other consideration received by each
2 party to the transactions;

3 h. Information identifying 100 percent of the current owners of
4 the nursing home including all principals and interested parties;

5 i. A copy of the nursing home's organizational chart and an
6 organizational chart for any third-party entity exercising substantial
7 management control over the nursing home, which organizational
8 chart shall include, as applicable:

9 (1) parent corporations and wholly-owned subsidiaries;

10 (2) related parties in which the licensee, or any owner or
11 principal of the licensee, has an ownership or control interest of five
12 percent or more that provided a service, a facility, or supplies to the
13 nursing home in the preceding year; and

14 (3) unrelated parties that provided a service, a facility, or
15 supplies to the nursing home in the preceding year that were paid
16 more than \$200,000 by the nursing home in the preceding year; and

17 j. A consolidated financial statement for the nursing home, a
18 consolidated financial statement for any third party entity exercising
19 substantial management control over the nursing home, and
20 consolidated financial statements for each related party in which the
21 licensee, or any owner or principal of the licensee, has an
22 ownership or control interest of five percent or more that provides a
23 service, a facility, or supplies to the nursing home, which
24 consolidated financial statements shall meet the following
25 requirements:

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

31 (2) the statement shall include:

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

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

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

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

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

1 applicable State or federal law or regulation or national accounting
2 standard.¹

3 (cf: P.L.1977, c.237, s.2)

4
5 ^{15.} (New section) a. Each nursing home shall, at a minimum,
6 post and maintain on its Internet website the information required to
7 be reported pursuant to subsection h. of section 2 of P.L.1977, c.237
8 (C.26:2H-33), the organizational chart for the nursing home and any
9 third party entity exercising substantial management control over
10 the nursing home required pursuant to subsection i. of section 2 of
11 P.L.1977, c.237 (C.26:2H-33), the nursing home's most recent
12 consolidated financial statement required pursuant to subsection j.
13 of section 2 of P.L.1977, c.237 (C.26:2H-33), the most recent
14 consolidated financial statements required pursuant to subsection j.
15 of section 2 of P.L.1977, c.237 (C.26:2H-33) for any third party
16 entity exercising substantial management control over the nursing
17 home, and the most recent consolidated financial statements
18 required pursuant to subsection j. of section 2 of P.L.1977, c.237
19 (C.26:2H-33) for all related parties in which the licensee, or any
20 owner or principal of the licensee, has an ownership or control
21 interest of five percent or more that provides a service, a facility, or
22 supplies to the nursing home.

23 b. The department shall:

24 (1) include on its Internet website a link to the page where each
25 nursing home has posted the information required pursuant to
26 subsection h. of section 2 of P.L.1977, c.237 (C.26:2H-33), the
27 organizational charts required pursuant to subsection i. of section 2
28 of P.L.1977, c.237 (C.26:2H-33), and the consolidated financial
29 statements required pursuant to subsection j. of section 2 of
30 P.L.1977, c.237 (C.26:2H-33); and

31 (2) make all information submitted to the department pursuant
32 to subsection h. of this section, all organizational charts submitted
33 to the department pursuant to subsection i. of section 2 of P.L.1977,
34 c.237 (C.26:2H-33), and all consolidated financial statements
35 submitted to the department pursuant to subsection j. of section 2 of
36 P.L.1977, c.237 (C.26:2H-33) available to the public upon request.¹

37
38 ¹[3.] 6.¹ Section 3 of P.L.2021, c.457 (C.26:2H-46.3) is
39 amended to read as follows:

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

1 agencies, county and local agencies, and federal authorities. The
2 department's review shall include:

- 3 (1) identifying and eliminating duplicative reporting;
- 4 (2) establishing standardized formats, requirements, protocols,
5 and systems for data reporting, which may include requiring nursing
6 homes to report data in machine-readable formats to facilitate the
7 processing and analysis of reported data;
- 8 (3) establishing a centralized, cross-agency workgroup to
9 monitor nursing home reporting;
- 10 (4) assessing State health information technology needs to
11 support technology-enabled and data-driven regulatory oversight
12 across State departments and agencies, anticipate potential uses for
13 the enhanced technologies and systems, enable systems to readily
14 accept and analyze additional data metrics required pursuant to
15 subsection b. of this section, and identify opportunities to centralize
16 and modernize State health data infrastructure, processes, and
17 analytic capabilities;
- 18 (5) assessing nursing home health information technology needs
19 to support population health management, interoperability, and
20 modernized reporting requirements; and
- 21 (6) identifying and applying for federal funding to support
22 health information technology infrastructure development.

23 b. (1) ¹ ~~["The department shall require [all] each nursing~~
24 ~~["homes] home to annually prepare and submit to the department a~~
25 ~~consolidated financial statement that meets the requirements of~~
26 ~~paragraph (4) of this subsection, and a consolidated financial~~
27 ~~statement that meets the requirements of paragraph (4) of this~~
28 ~~subsection for any third party entity exercising substantial~~
29 ~~management control over the nursing home and for all related~~
30 ~~parties in which the licensee, or any owner or principal of the~~
31 ~~licensee, has an ownership or control interest of five percent or~~
32 ~~more that provides a service, a facility, or supplies to the nursing~~
33 ~~home. The nursing home shall, at a minimum, post and maintain on~~
34 ~~["their] its Internet [websites annual owner-certified financial~~
35 ~~statements along with the nursing home's most recent cost reports~~
36 ~~submitted to the federal Centers for Medicare and Medicaid~~
37 ~~Services] website the nursing home's most recent consolidated~~
38 ~~financial statement the most recent consolidated financial~~
39 ~~statements for any third party entity exercising substantial~~
40 ~~management control over the nursing home and for all related~~
41 ~~parties in which the licensee, or any owner or principal of the~~
42 ~~licensee, has an ownership or control interest of five percent or~~
43 ~~more that provides a service, a facility, or supplies to the nursing~~
44 ~~home. The department shall include on its Internet website a link to~~
45 ~~the page where each nursing [home's certified financial statements~~
46 ~~and cost reports are] home has posted the consolidated financial~~
47 ~~statements required under this paragraph, and shall make all~~

1 consolidated financial statements submitted to the department
2 available to the public upon request.】 (deleted by amendment,
3 P.L. , c.) (pending before the Legislature as this bill)¹
4 **【Nursing homes that are part of a health care system may post**
5 **financial statements and cost reports pursuant to this paragraph that**
6 **aggregate the financial data across all nursing homes that are a part**
7 **of that health care system. A nonprofit nursing home that posts a**
8 **copy of its most recent Internal Revenue Service Form 990 on its**
9 **Internet website shall be deemed to have met the requirement for**
10 **the nursing home to post an owner-certified financial statement on**
11 **its Internet website pursuant to this paragraph, and the nursing**
12 **home's posted Internal Revenue Service Form 990 shall be**
13 **considered an owner-certified financial statement for the purposes**
14 **of this paragraph and subparagraph (d) of paragraph (1) of**
15 **subsection f. of this section.】**

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

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

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

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

24 (i) the healthcare-associated infection reporting modules for
25 urinary tract infections, the laboratory-identified event module for
26 Clostrum difficile (C.diff) infection and multidrug-resistant
27 organisms, and prevention measures; and

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

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

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

36 (b) a copy of the nursing home's organizational chart, which
37 shall include, as applicable: parent corporations and wholly-owned
38 subsidiaries; third party entities exercising substantial management
39 control over the nursing home; related parties in which the licensee,
40 or any owner or principal of the licensee, has an ownership or
41 control interest of five percent or more that provided a service, a
42 facility, or supplies to the nursing home in the preceding year;
43 unrelated parties that provided a service, a facility, or supplies to
44 the nursing home in the preceding year that were paid more than
45 \$200,000 by the nursing home in the preceding year; and entities
46 owned, operated, or managed by the owners and principals,
47 including management companies and property companies, that

1 were paid more than \$200,000 by the nursing home in the preceding
2 year.

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

6 (a) the statement shall be audited by a certified public
7 accountant in accordance with generally accepted accounting
8 principles and with the Financial Accounting Standards Board's
9 financial reporting requirements, with financial statements prepared
10 using the accrual basis; and

11 (b) the statement shall include:

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

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

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

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

22 (v) a combined financial statement that includes all entities
23 reported in the consolidated financial statement, unless the
24 reporting entity is prohibited from including a combined financial
25 statement in a consolidated financial statement pursuant to State or
26 federal law or regulation or national accounting standard, in which
27 case the reporting entity shall disclose to the department the
28 applicable state or federal law or regulation or national accounting
29 standard.】'

30 c. The department may develop additional data reporting
31 requirements for nursing homes as are necessary to improve
32 transparency and facilitate the department's ability to oversee and
33 regulate operations in nursing homes, including, but not limited to,
34 data related to occupancy, operating expenses and other appropriate
35 financial metrics, and utilization and staffing data. In developing
36 additional reporting requirements pursuant to this subsection, the
37 department shall solicit feedback from nursing homes, advocacy
38 groups for nursing home residents and their families, the New
39 Jersey Long-Term Care Ombudsman, and Medicaid managed care
40 organizations concerning proposed new data metrics, methods of
41 maximizing the efficiency of data collection and specification,
42 minimizing duplicative data reporting, and identifying ways to
43 consolidate, automate, or streamline the data required to be reported
44 by State and federal agencies and managed care organizations.

45 d. The department shall establish centralized State protocols for
46 nursing home communications to reduce duplicative outreach and
47 enhance information sharing capabilities.

48 e. The department shall require nursing homes to:

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

4 (2) designate a staff person who shall be responsible for
5 responding to questions from the public concerning the nursing
6 home, including questions about the nursing home's policies,
7 procedures, and operations. The contact information for members
8 of the public to direct questions and request information shall be
9 posted on the nursing home's Internet website.

10 f. (1) The department shall develop, make available on its
11 Internet website, and update at least quarterly, a data dashboard that
12 provides a separate page or listing for each nursing home licensed
13 in the State with links to the sites where information and data
14 relevant to the nursing home may be found, as well as a description
15 of the data and information that is accessible through each link.
16 The data dashboard shall be searchable by nursing home. The data
17 and information links available through the dashboard shall include,
18 at a minimum, for each nursing home:

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

21 (b) the total number of complaints involving the nursing home,
22 the number and nature of substantiated complaints involving the
23 nursing home, the number of open investigations of complaints
24 involving the nursing home, and the total number of outstanding
25 complaints involving the nursing home that have not been
26 investigated or resolved;

27 (c) the dates and results of inspections and surveys of the
28 nursing home by the Department of Health, the Department of
29 Human Services, and the federal Centers for Medicare and
30 Medicaid Services, including links to any deficiencies or violations
31 for which the nursing home was cited and to any corrective action
32 plans in place at the nursing home;

33 (d) a link to the website where ¹the consolidated financial
34 statements]¹ each nursing [home's certified financial statements
35 and the nursing home's cost reports submitted to the federal Centers
36 for Medicare and Medicaid Services are posted] home ¹[is] has
37 posted its ownership information, organizational charts, and
38 consolidated financial statements as¹ required ¹[to submit] under
39 subsection a. of section 5 of P.L. , c. (C.) (pending before
40 the Legislature as this bill)¹ ;

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

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

45 (g) the number of residents who developed a pressure ulcer,
46 including the number of residents who developed multiple pressure
47 ulcers;

(h) the number of each type of facility-acquired infection at the nursing home as reported to the National Health Care Safety Network's Long-term Care Facility Component pursuant to paragraph (2) of subsection b. of this section; ~~and~~ ¹and¹

(i) ¹~~["a link to the website where each nursing home has posted its ownership information and organizational chart pursuant to paragraph (3) of subsection b. of this section; and~~

(j)]¹ such other data as the department determines appropriate to allow the public to make informed choices when evaluating and selecting a nursing home.

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

(3) For the purposes of making available to the public the data described in subparagraph (h) of paragraph (1) of this subsection, the department shall: 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 pursuant to paragraph (2) of subsection b. of this section; make the data available on the department's Internet website; and update the data at least quarterly using the most current data obtained from the National Healthcare Safety Network. The data shall provide details concerning the number of reported infections, by infection type, for each nursing home licensed in the State. The department shall additionally provide on its Internet website data concerning the Statewide and national averages for each type of reported infection in nursing homes.

¹~~[g. As used in this section:~~

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

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

~~"Related party" means an organization related to the owners or principals of a licensed nursing home or related to a third party entity exercising substantial management control of the nursing home's operations, or that is under common ownership or control with the nursing home or third party entity, as defined in 42 CFR s.413.17(b). "Related party" may include, but shall not be limited to: home offices; management organizations; owners of real estate; entities that provide staffing, therapy, pharmaceutical, marketing, administrative management, consulting, and insurance services; providers of supplies and equipment; financial advisors and consultants; banking and financial entities; all parent companies, holding companies, and sister organizations; and any entity in~~

1 which an immediate family member of an owner of those
2 organizations has an ownership interest of five percent or more.

3 “Substantial management control” means the primary authority
4 to direct the operation and administration of a nursing home,
5 including, but not limited to, exercising control over resident
6 admissions, room assignments, staff hiring, staff scheduling, staff
7 assignments, personnel issues, billing, purchasing, managing
8 vendor contracts, establishing and enforcing operational protocols
9 and procedures, resident safety, infection control, communicating
10 with and reporting to governmental and other entities, and ensuring
11 compliance with State and federal requirements concerning the
12 operation of the nursing home.]¹

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

14
15 ¹**[4.] 7.¹** Section 3 of P.L.2020, c.89 (C.30:4D-7cc) is amended
16 to read as follows:

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

26 b. No later than 90 days after the effective date of this act, the
27 Commissioner of Human Services shall conduct a review of the
28 Department of Human Services' Medicaid value-based payment
29 strategy, including the Quality Incentive Payment Program, to
30 ensure incentives provided under the strategy focus on priority
31 metrics for quality improvement, and shall review and determine
32 whether incentives are an effective means of driving improvements
33 in quality of care and resident and staff safety in nursing homes.

34 c. (1) The Commissioner of Human Services shall establish a
35 direct care ratio reporting and rebate requirement, which shall take
36 effect no later than July 1, 2021, pursuant to which nursing homes
37 shall be required to report total revenues collected, along with the
38 portion of revenues that are expended on direct care staff wages,
39 other staff wages, taxes, administrative costs, investments in
40 improvements to the facility's equipment and physical plant, profits,
41 and any other factors as the commissioner shall require. At the
42 commissioner's discretion, the reporting requirements of this
43 paragraph may be met by the nursing home submitting an audited
44 consolidated financial statement that meets the requirements of
45 ¹[paragraph (4) of] ¹subsection ¹[b. of section 3 of P.L.2021, c.457
46 (C.26:2H-46.3)] j. of section 2 of P.L.1977, c.237 (C.26:2H-33)¹ .

47 (2) The direct care ratio shall require 90 percent, or such higher
48 percentage as the commissioner may establish by regulation, of a

1 facility's aggregate revenue in a fiscal year to be expended on the
2 direct care of residents. The commissioner shall determine which
3 components of the reporting requirements shall be attributed to
4 direct patient care, administrative costs, and profits. The
5 commissioner may adjust the components of the ratio as appropriate
6 based on current financial information reported by nursing homes
7 and overall performance by the nursing home related to patient
8 safety and quality of care.

9 (3) The commissioner or an entity designated by the
10 commissioner may conduct an audit of the financial information
11 reported by nursing homes pursuant to this section to ensure the
12 accuracy of the information reported and compliance with the
13 requirements of this section, as well as to identify and recover any
14 payments that exceed the allowed cost ratio for administrative costs
15 and profits.

16 (4) In each case where the direct care loss ratio fails to
17 substantially comply with the ratio requirement established pursuant
18 to this subsection, the nursing home shall issue a pro rata dividend
19 or credit to the State and to all individuals and entities making
20 payments to the nursing home for resident services in an amount
21 sufficient to assure that the aggregate amount paid for direct care
22 staff wages, other staff wages, taxes, administrative costs,
23 investments in improvements to the nursing home's equipment and
24 physical plant, profits, and other factors, plus the amount of the
25 dividends and credits, equals the mandatory ratio for the previous
26 calendar year. The pro rata dividend or credit shall be equal to the
27 percentage of payments made by the payor to the nursing home in
28 the previous calendar year out of all payments made to the nursing
29 home for services provided in the previous calendar year from all
30 payment sources. All dividends and credits shall be distributed by
31 June 30 of the year following the calendar year in which the ratio
32 requirements were not satisfied.

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

34
35 ¹**[5.] 8.**¹ This act shall take effect 60 days after the date of
36 enactment, except that section ¹**[3] 5**¹ of this act shall take effect
37 60 days after the date of enactment or immediately upon the
38 effective date of section 3 of P.L.2021, c.495 (C.26:2H-46.3),
39 whichever occurs later.