

**SENATE, No. 2892**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED JUNE 20, 2022

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator JOSEPH P. CRYAN**

**District 20 (Union)**

**SYNOPSIS**

Establishes requirements for sanctions and other actions involving low-performing nursing homes.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning nursing homes and supplementing P.L.1976,  
2 c120 (C.30:13-1 et seq.).

3

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

6

7 1. a. In the event that a nursing home receives a one-star rating  
8 from the federal Centers for Medicare and Medicaid Services, and  
9 the nursing home received a rating of two stars or higher in the  
10 preceding quarter, the Division of Medical Assistance and Health  
11 Services in the Department of Human Services shall issue a warning  
12 to the nursing home:

13 (1) urging the nursing home to improve the quality of care  
14 provided to residents;

15 (2) advising the nursing home that a second or subsequent one-  
16 star rating may result in the division requiring the nursing home to  
17 take specific steps to improve the quality of care; and

18 (3) advising the nursing home that the failure to improve quality  
19 of care at the nursing home may result in the division imposing  
20 sanctions against the nursing home.

21 b. In the event a nursing home receives a one-star rating from  
22 the federal Centers for Medicare and Medicaid Services in two  
23 consecutive quarters, the division shall evaluate whether to impose  
24 sanctions against the nursing home, which sanctions may include,  
25 but shall not be limited to: issuing an order prohibiting the nursing  
26 home from admitting new Medicaid enrollees; limiting the total  
27 number of Medicaid enrollees who may be admitted to the nursing  
28 home; and reducing or limiting payments to the nursing home under  
29 the Department of Human Services' quality incentive payment  
30 program.

31 c. In the event a nursing home receives a one-star rating from  
32 the federal Centers for Medicare and Medicaid Services in three  
33 consecutive quarters, the division shall evaluate whether to impose  
34 additional sanctions against the nursing home, which sanctions shall  
35 be in addition to, and more severe than, any sanctions imposed  
36 pursuant to subsection b. of this section. Sanctions imposed  
37 pursuant to this subsection may include, but shall not be limited to:  
38 issuing an order prohibiting the nursing home from admitting new  
39 residents; removing current residents who are Medicaid enrollees  
40 from the nursing home; stopping all payments to the nursing home  
41 under the Department of Human Services' quality incentive  
42 payment program; declining to approve or revoking the approval of  
43 the owner or operator of the nursing home to participate in  
44 Medicaid; and, in consultation with the Department of Health,  
45 prohibiting the owner or operator of the nursing home from  
46 obtaining an interest in, or contracting with, any other nursing home  
47 in the State.

1 d. (1) In addition to any other actions taken pursuant to  
2 subsection b. or c. of this section, the division shall require a  
3 nursing home that receives a one-star rating from the federal  
4 Centers for Medicare and Medicaid Services in three or more  
5 consecutive quarters to submit an improvement plan to the division,  
6 in a manner and method to be determined by division, providing a  
7 description of the action steps to be taken by the nursing home over  
8 an 18-month period to resolve the quality issues indicated by  
9 facility's consecutive one-star ratings.

10 (2) The division, in consultation with the Department of Health,  
11 shall review a plan submitted by a nursing home pursuant to  
12 paragraph (1) of this subsection. A nursing home shall immediately  
13 commence implementing the plan upon written approval by the  
14 division. If the division does not approve a nursing home's  
15 improvement plan, the division shall return the disapproved plan to  
16 the nursing home with a written explanation of the plan's  
17 deficiencies. The nursing home shall have 30 days from receipt of a  
18 disapproved plan to submit an updated improvement plan to the  
19 division for approval. If the division determines a nursing home's  
20 updated improvement plan cannot be approved, the division shall  
21 have the discretion to return the plan to the nursing home with a  
22 written explanation of the plan's deficiencies and allow the nursing  
23 home to submit a second updated plan, or to make a determination  
24 that the nursing home is noncompliant with the requirements of this  
25 subsection.

26 (3) Within 60 days of the completion of the nursing home's  
27 approved improvement plan, the nursing home shall submit a report  
28 to the division documenting the execution of the plan, as well as the  
29 outcomes of the action steps. The division, in consultation with the  
30 Department of Health, shall evaluate the report and determine the  
31 whether the nursing home was compliant in implementing the plan  
32 as approved by the division. At the division's discretion, a nursing  
33 home determined to be noncompliant with the implementation of its  
34 improvement plan may be provided additional time to fulfill the  
35 actions steps outlined in the plan.

36 (4) A nursing home that fails to comply with the requirements of  
37 this subsection shall be ineligible to receive reimbursement under  
38 the Medicaid program, provided that reimbursement for services  
39 shall continue until all Medicaid beneficiaries residing at the  
40 nursing home have been relocated. The nursing home shall be  
41 responsible for informing Medicaid residents, in writing, of the  
42 nursing home's non-compliance with the requirements of this  
43 subsection, and shall provide the division with a patient-centered  
44 discharge plan for current Medicaid residents within 30 days of the  
45 receipt of the division's written determination of noncompliance  
46 with the requirements of this subsection. The division shall include  
47 information on an appeals process, to be established by the division,

1 in the written documentation provided to a noncompliant nursing  
2 home.

3 e. When evaluating whether to impose sanctions against a  
4 nursing home as provided under subsection b. and subsection c. of  
5 this section, the division shall consult with the Department of  
6 Health concerning its recommendations for action against the  
7 nursing home, and shall review the information concerning the  
8 nursing home that is available on the data dashboard maintained by  
9 the Department of Health pursuant to subsection f. of section 3 of  
10 P.L.2021, c.457 (C. ). In the event the division does not take  
11 action against a nursing home as authorized under subsection b. or  
12 subsection c. of this section, the division shall document the reason  
13 why action was not taken.

14 f. In addition to any actions taken pursuant to subsections b.,  
15 c., or d. of this section, the division may, at any time, institute any  
16 actions as shall be necessary to protect the health and well-being of  
17 residents and staff at a nursing home.

18 g. Commencing one year after the effective date of this act, and  
19 annually thereafter, the Assistant Commissioner for the Division of  
20 Medical Assistance and Health Services in the Department of  
21 Human Services shall prepare and submit a report to the Governor  
22 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the  
23 Legislature, outlining the sanctions imposed pursuant to this act in  
24 each quarter of the preceding year, providing the reasons why  
25 sanctions were not imposed against any nursing home for which  
26 sanctions were authorized pursuant to subsection b. or subsection c.  
27 of this act, and outlining the results of any improvement plans  
28 required pursuant to subsection d. of this section and actions taken  
29 against nursing homes determined to be non-compliant with the  
30 requirements of subsection d. of this section.

31 h. Nothing in this section shall be construed to diminish the  
32 authority of the Department of Health or any other department or  
33 agency having regulatory authority over nursing homes. A sanction  
34 or other action imposed against a nursing home pursuant to this  
35 section shall be in addition to any other penalties as may be  
36 imposed against the nursing home for violations of State or federal  
37 law by the Department of Health or any other department or agency  
38 having jurisdiction.

39 i. The Assistant Commissioner for the Division of Medical  
40 Assistance and Health Services in the Department of Human  
41 Services shall adopt rules and regulations, pursuant to the  
42 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
43 seq.), establishing the criteria the division shall consider when  
44 determining whether to impose sanctions against a nursing home  
45 pursuant to this section and when determining which sanctions are  
46 appropriate for the nursing home, which criteria shall include, at a  
47 minimum, the preferences of nursing home residents and the  
48 availability of other nursing homes in the same region.

1 2. The Commissioner of Human Services shall apply for such  
2 State plan amendments or waivers as may be necessary to  
3 implement the provisions of this act and to secure federal financial  
4 participation for State Medicaid expenditures under the federal  
5 Medicaid program.

6  
7 3. This act shall take effect 90 days after the date of enactment.  
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10 STATEMENT  
11

12 This bill requires the Division of Medical Assistance and Health  
13 Services in the Department of Human Services (DHS) to take  
14 certain actions involving nursing homes that receive a one-star  
15 quality rating from the federal Centers for Medicare and Medicaid  
16 Services (CMS). The CMS currently rates the quality of care in  
17 nursing homes on a scale of one to five stars.

18 Specifically, if the nursing home did not receive a one-star rating  
19 in the preceding quarter, the division will be required to issue a  
20 warning to the nursing home: 1) urging the nursing home to  
21 improve the quality of care provided to residents; 2) advising the  
22 nursing home that a second or subsequent one-star rating may result  
23 in the division requiring the nursing home to take specific steps to  
24 improve the quality of care; and 3) advising the nursing home that  
25 the failure to improve quality of care at the nursing home may result  
26 in the division imposing sanctions against the nursing home.

27 If the nursing home receives a one-star CMS rating in two  
28 consecutive quarters, the division will be required to evaluate  
29 whether to impose sanctions against the nursing home, which  
30 sanctions may include, but will not be limited to: issuing an order  
31 prohibiting the nursing home from admitting new Medicaid  
32 enrollees; limiting the total number of Medicaid enrollees who may  
33 be admitted to the nursing home; and reducing or limiting payments  
34 to the nursing home under the DHS quality incentive payment  
35 program.

36 If the nursing home receives a one-star CMS rating in three  
37 consecutive quarters, the division will be required to evaluate  
38 whether to impose additional sanctions against the nursing home,  
39 which sanctions will be in addition to, and more severe than, any  
40 sanctions imposed for a one-star CMS rating in two consecutive  
41 quarters. The sanctions may include, but will not be limited to:  
42 issuing an order prohibiting the nursing home from admitting new  
43 residents; removing current residents who are Medicaid enrollees  
44 from the nursing home; stopping all payments to the nursing home  
45 under the DHS quality incentive payment program; declining to  
46 approve or revoking the approval of the owner or operator of the  
47 nursing home to participate in Medicaid; and, in consultation with  
48 the Department of Health (DOH), prohibiting the owner or operator

1 of the nursing home from obtaining an interest in, or contracting  
2 with, any other nursing home in the State. The division may  
3 additionally institute any actions as are necessary to protect the  
4 health and well-being of residents and staff at the nursing home.

5 When evaluating whether to impose sanctions against a nursing  
6 home, the division will be required to consult with the DOH  
7 concerning its recommendations for action against the nursing home  
8 and review the information concerning the nursing home that is  
9 available on the DOH's nursing home data dashboard. In the event  
10 the division does not take action against a nursing home as  
11 authorized under the bill, the division will be required to document  
12 the reason why action was not taken.

13 In addition to any other actions taken against a nursing home  
14 under the bill, the division is to require a nursing home that receives  
15 a one-star CMS rating in three or more consecutive quarters to  
16 submit an improvement plan to the division, in a manner and  
17 method to be determined by division, providing a description of the  
18 action steps to be taken by the nursing home over an 18-month  
19 period to resolve the quality issues indicated by nursing home's  
20 consecutive one-star ratings. The division, in consultation with the  
21 DOH, will review the plan and either approve it or return it to the  
22 nursing home with a description of the changes needed for the plan  
23 to be approved. Upon approval of its improvement plan, a nursing  
24 home will be required to begin implementing the plan immediately.

25 If an improvement plan is returned to the nursing home for  
26 revision, the nursing home will then have 30 days to submit an  
27 updated plan to the division for approval. If the division determines  
28 the updated plan cannot be approved, it will have the discretion to  
29 allow the nursing home to submit a second updated plan or to make  
30 a determination that the nursing home is noncompliant with  
31 improvement plan requirements, which will result in the division  
32 removing all Medicaid enrollees from the nursing home, as outlined  
33 below.

34 Within 60 days after completing its improvement plan, a nursing  
35 home will be required to submit a report to the division  
36 documenting the execution of the plan, as well as the outcomes of  
37 the action steps. The division, in consultation with the DOH, will  
38 evaluate the report and determine the nursing home's compliance in  
39 implementing the plan as approved by the division. At the  
40 division's discretion, a nursing home determined to be  
41 noncompliant with the implementation of the facility's  
42 improvement plan may be provided additional time to fulfill the  
43 actions steps outlined in the plan.

44 A nursing home that fails to comply with the requirements  
45 concerning the submission and implementation of an improvement  
46 plan will be ineligible to receive reimbursement under the Medicaid  
47 program, although reimbursement for services will continue until all  
48 Medicaid beneficiaries residing at the nursing home have been

1 relocated. The nursing home will be responsible for: 1) informing  
2 Medicaid residents, in writing, of the nursing home's  
3 noncompliance with the improvement plan requirements; and 2)  
4 providing the division with a patient-centered discharge plan for  
5 current Medicaid residents within 30 days of the determination of  
6 noncompliance. Nursing homes will have the right to appeal the  
7 determination of non-compliance.

8 Commencing one year after the effective date of the bill, and  
9 annually thereafter, the division will be required to prepare and  
10 submit a report to the Governor and the Legislature outlining the  
11 sanctions imposed against nursing homes under the bill in each  
12 quarter of the preceding year, explaining the reason why sanctions  
13 were not imposed against any nursing home for which sanctions  
14 were authorized under the bill, and outlining the results of any  
15 nursing home improvement plans required under to the bill and the  
16 actions taken against each nursing home that was determined to be  
17 noncompliant with the improvement plan requirements established  
18 under the bill.

19 In addition to the sanctions authorized under the bill, the bill  
20 specifies that the division may, at any time, institute any actions  
21 necessary to protect the health and well-being of residents and staff  
22 at a nursing home.

23 Nothing in the bill is to be construed to diminish the authority of  
24 the DOH or any other department or agency having regulatory  
25 authority over nursing homes, and a sanction or other action  
26 imposed against a nursing home under the bill will be in addition to  
27 any other penalties imposed against the nursing home for violations  
28 of State or federal law.

29 The division will be required to promulgate regulations  
30 establishing the criteria the division will consider when determining  
31 whether to impose sanctions against a nursing home and which  
32 sanctions are appropriate for the nursing home. These criteria will  
33 include, at a minimum, consideration of the preferences of nursing  
34 home residents and the availability of other nursing homes in the  
35 same region.

36 This bill implements the recommendations of the Office of the  
37 State Comptroller outlined in its February 2022 report titled, "An  
38 Examination of the Lowest-Rated Long Term Care Facilities  
39 Participating in New Jersey's Medicaid Program."