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1  
2 An act relating to Medicaid; creating s. 409.9082,  
3 F.S.; providing definitions; providing for a quality  
4 assessment to be imposed upon nursing home facility  
5 providers; requiring the Agency for Health Care  
6 Administration to calculate the quality assessment  
7 rate annually; providing requirements for reporting  
8 and collecting the assessment; exempting certain  
9 nursing home facility providers from the assessment;  
10 providing for certain providers to pay a lower  
11 assessment; specifying the purposes of the assessment  
12 and an order of priority; requiring that the agency  
13 seek federal authorization to implement the act;  
14 specifying circumstances requiring discontinuance of  
15 the quality assessment; authorizing the agency to  
16 impose certain penalties against providers that fail  
17 to pay the assessment; requiring the agency to adopt  
18 rules; providing an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 409.9082, Florida Statutes, is created  
23 to read:

24 409.9082 Quality assessment on nursing home facility  
25 providers; exemptions; purpose; federal approval required;  
26 remedies.—

27 (1) As used in this section, the term:

28 (a) "Net patient service revenue" means gross revenues from  
29 services provided to nursing home facility patients, less

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30 reductions from gross revenue resulting from an inability to  
31 collect payment of charges. Such reductions include bad debts;  
32 contractual adjustments; uncompensated care; administrative,  
33 courtesy, and policy discounts and adjustments; and other such  
34 revenue deductions.

35 (b) "Nursing home facility" means a facility licensed under  
36 part II of chapter 400.

37 (c) "Resident day" means a calendar day of care provided to  
38 a nursing home facility resident, including the day of admission  
39 and excluding the day of discharge, except that, when admission  
40 and discharge occur on the same day, 1 day of care is deemed to  
41 exist.

42 (d) "Medicare Part A resident days" means those patient  
43 days funded by the Medicare program or by a Medicare Advantage  
44 or special needs plan.

45 (e) "Skilled nursing facility units of acute care  
46 hospitals" means the Medicare-certified skilled nursing beds  
47 located in hospitals licensed under chapter 395.

48 (2) Effective April 1, 2009, there is imposed upon each  
49 nursing home facility a quality assessment. The aggregated  
50 amount of assessments for all nursing home facilities in a given  
51 year shall be an amount not exceeding 5.5 percent of the total  
52 aggregate net patient service revenue of assessed facilities.  
53 The agency shall calculate the quality assessment rate annually  
54 on a per-resident-day basis, exclusive of those resident days  
55 funded by the Medicare program, as reported by the facilities.  
56 The per-resident-day assessment rate shall be uniform except as  
57 prescribed in subsection (3). Each facility shall report monthly  
58 to the agency its total number of resident days, exclusive of

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59 Medicare Part A resident days, and shall remit an amount equal  
60 to the assessment rate times the reported number of days. The  
61 agency shall collect, and each facility shall pay, the quality  
62 assessment each month. The agency shall collect the assessment  
63 from nursing home facility providers by no later than the 15th  
64 of the next succeeding calendar month. The agency shall notify  
65 providers of the quality assessment and provide a standardized  
66 form to complete and submit with payments. The collection of the  
67 nursing home facility quality assessment shall commence no  
68 sooner than 5 days after the agency's initial payment of the  
69 Medicaid rates containing the elements prescribed in subsection  
70 (4). Nursing home facilities may not create a separate line-item  
71 charge for the purpose of passing through the assessment to  
72 residents.

73 (3) (a) The following nursing home facility providers are  
74 exempt from the quality assessment:

75 1. Nursing home facilities that are licensed under part II  
76 of chapter 400 and located on the campus of continuing care  
77 retirement communities operating pursuant to a certificate of  
78 authority under chapter 651;

79 2. Nursing home facilities that have 45 or fewer beds; and

80 3. The skilled nursing facility units of acute care  
81 hospitals licensed by the agency under chapter 395.

82 (b) The agency may apply a lower quality assessment rate to  
83 high-volume Medicaid nursing facilities. The agency shall apply  
84 the lower rate to the fewest number of such facilities necessary  
85 to meet federal Medicaid waiver requirements.

86 (c) The agency may apply a lower quality assessment rate to  
87 high-patient-volume nursing facilities. The agency shall apply

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88 the lower rate to the fewest number of such facilities necessary  
89 to meet federal Medicaid waiver requirements.

90 (4) The purpose of the nursing home facility quality  
91 assessment is to ensure continued quality of care. Collected  
92 assessment funds shall be used to obtain federal financial  
93 participation through the Medicaid program to make Medicaid  
94 payments for nursing home facility services up to the amount of  
95 nursing home facility Medicaid rates as calculated in accordance  
96 with the approved state Medicaid plan in effect on December 31,  
97 2007. The quality assessment and federal matching funds shall be  
98 used exclusively for the following purposes and in the following  
99 order of priority:

100 (a) To reimburse the Medicaid share of the quality  
101 assessment as a pass-through, Medicaid-allowable cost;

102 (b) To increase to each nursing home facility's Medicaid  
103 rate, as needed, an amount that restores the rate reductions  
104 implemented January 1, 2008, and January 1, 2009;

105 (c) To increase to each nursing home facility's Medicaid  
106 rate, as needed, an amount that restores any rate reductions for  
107 the 2008-2009 fiscal year; and

108 (d) To increase each nursing home facility's Medicaid rate  
109 that accounts for the portion of the total assessment not  
110 included in paragraphs (a)-(c) which begins a phase-in to a  
111 pricing model for the operating cost component.

112 (5) The agency shall seek necessary federal approval in the  
113 form of waivers and state plan amendments in order to implement  
114 the provisions of this section.

115 (6) The quality assessment shall terminate and the agency  
116 shall discontinue the imposition, assessment, and collection of

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117 the nursing facility quality assessment if any of the following  
118 occur:

119 (a) The agency does not obtain necessary federal approval  
120 for the nursing home facility quality assessment or the payment  
121 rates required by subsection (4); or

122 (b) The weighted average Medicaid rate paid to nursing home  
123 facilities is reduced below the weighted average Medicaid rate  
124 to nursing home facilities in effect on December 31, 2008, plus  
125 any future annual amount of the quality assessment and the  
126 applicable matching federal funds.

127  
128 Upon termination of the quality assessment, all collected  
129 assessment revenues, less any amounts expended by the agency,  
130 shall be returned on a pro rata basis to the nursing facilities  
131 that paid them.

132 (7) The agency may seek any of the following remedies for  
133 failure of any nursing home facility provider to pay its  
134 assessment timely:

135 (a) Withholding any medical assistance reimbursement  
136 payments until such time as the assessment amount is recovered;

137 (b) Suspension or revocation of the nursing home facility  
138 license; and

139 (c) Imposition of a fine of up to \$1,000 per day for each  
140 delinquent payment, not to exceed the amount of the assessment.

141 (8) The agency shall adopt rules necessary to administer  
142 this section.

143 Section 2. This act shall take effect upon becoming a law.