

By Senator Gibson

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1                   A bill to be entitled  
2       An act relating to nursing home accountability;  
3       amending s. 400.141, F.S.; requiring licensed nursing  
4       home facilities to comply with certain rules adopted  
5       by the Agency for Health Care Administration;  
6       requiring the agency to adopt rules establishing a  
7       medical loss ratio for the disposition of Medicaid  
8       revenue in excess of expenses for nursing home  
9       facilities; providing the method of calculating the  
10      medical loss ratio; requiring nursing home facilities  
11      to pay any excess Medicaid revenue to the agency by a  
12      specified date under certain circumstances; providing  
13      for the collection of such payments; requiring the  
14      agency to use refunds of excess Medicaid revenue to  
15      fund certain initiatives; requiring nursing home  
16      facilities to limit their use of excess Medicaid  
17      revenue for management salaries and limit rates paid  
18      for contracted staffing and services; prohibiting  
19      nursing home facilities from using more than a  
20      specified percentage of Medicaid funding on executive  
21      and managerial salaries; prohibiting nursing home  
22      facilities from contracting with certain management  
23      companies for staffing or services at a rate exceeding  
24      a specified percentage; providing an exception;  
25      requiring each nursing home facility to post certain  
26      maximum rates charged at the facility on its Internet  
27      website and update the rates annually; requiring each  
28      nursing home facility to post a list of its owners on  
29      its Internet website and submit such list to the

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30 agency, to be posted on the agency's website;  
31 requiring nursing home facilities to update the list  
32 within a specified timeframe; requiring each nursing  
33 home facility to post summaries of certain contracts  
34 and agreements on its Internet website within a  
35 specified timeframe; requiring the agency to adopt  
36 rules; amending s. 408.061, F.S.; specifying that a  
37 nursing home's or its home office's actual financial  
38 experience is its audited actual experience for  
39 purposes of financial reporting; providing an  
40 effective date.

41  
42 Be It Enacted by the Legislature of the State of Florida:

43  
44 Section 1. Paragraphs (x), (y), and (z) are added to  
45 subsection (1) of section 400.141, Florida Statutes, to read:

46 400.141 Administration and management of nursing home  
47 facilities.—

48 (1) Every licensed facility shall comply with all  
49 applicable standards and rules of the agency and shall:

50 (x) Comply with rules adopted by the agency which establish  
51 a medical loss ratio for the disposition of revenue in excess of  
52 expenses for nursing home facilities.

53 1. The agency shall adopt rules requiring that a minimum of  
54 75 percent of the total Medicaid revenue of a nursing home  
55 facility be spent on costs related to patient care, 55 percent  
56 of which must be spent on direct care, as defined by agency  
57 rule. Patient care costs are calculated by combining direct care  
58 and indirect care costs pursuant to agency rule.

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59       2. If a nursing home facility fails to spend at least 75  
60 percent of its total Medicaid revenue on patient care costs as  
61 defined by agency rule, the nursing home facility must pay such  
62 excess revenue to the agency by January 1 of the following  
63 fiscal year. The agency shall collect such payments by any  
64 method it deems necessary, including, but not limited to,  
65 deductions or offsets from payments made under the Medicaid  
66 program. Refunds of excess Medicaid revenue collected by the  
67 agency shall be used to fund initiatives that improve the  
68 quality of care or quality of life for residents of nursing home  
69 facilities. Such initiatives may include, but need not be  
70 limited to, surveillance and inspection activities; activities  
71 designed to improve the quality, performance, and compliance of  
72 poorly performing nursing home facilities; training and  
73 education for facility staff; and activities to encourage  
74 resident and consumer involvement in initiatives to improve the  
75 quality of care or quality of life for residents of nursing home  
76 facilities.

77       (y) Limit the use of excess Medicaid revenue for management  
78 salaries and limit rates paid for contracted staffing or  
79 services so as not to exceed the current market rates for such  
80 staffing and services.

81       1. A nursing home facility may not use more than 15 percent  
82 of its total expenses funded through the Medicaid program for  
83 executive or managerial salaries.

84       2. A nursing home facility may not contract for staffing or  
85 services with any management company that has an ownership  
86 interest in the facility at a rate exceeding 10 percent of that  
87 for the facility's in-house staffing or service costs, unless an

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88 emergency has been declared as determined by the agency or as  
89 defined by agency rule.

91 The agency shall adopt rules to implement this paragraph.

92 (z) Post on its Internet website, and update annually, the  
93 maximum rates to be charged for the use of facilities and the  
94 provision of services, including the rates for services paid  
95 through public and private payor sources.

96 1. A nursing home facility shall post on its Internet  
97 website a list of all facility owners and submit such list to  
98 the agency for posting on the agency's Internet website. Such  
99 list must be updated within 30 days after any change is made to  
100 the list.

101 2. A nursing home facility shall also post on its Internet  
102 website a summary of any contract or agreement entered into by  
103 the facility for the provision of goods or services in which the  
104 facility has an ownership interest in the contracted company and  
105 pays for such goods or services using any portion of Medicaid  
106 funds. Such summaries must be posted within 30 days after such  
107 contract or agreement is executed.

108  
109 The agency shall adopt rules to implement this paragraph.

110 Section 2. Subsections (5) and (6) of section 408.061,  
111 Florida Statutes, are amended to read:

112 408.061 Data collection; uniform systems of financial  
113 reporting; information relating to physician charges;  
114 confidential information; immunity.-

115 (5) Within 120 days after the end of its fiscal year, each  
116 nursing home as defined in s. 408.07 shall file with the agency,

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117 on forms adopted by the agency and based on the uniform system  
118 of financial reporting, its actual financial experience for that  
119 fiscal year, including expenditures, revenues, and statistical  
120 measures. Such data may be based on internal financial reports  
121 that are certified to be complete and accurate by the chief  
122 financial officer of the nursing home. A nursing home's actual  
123 financial experience shall be its audited actual experience.  
124 This audited actual experience must include the fiscal year-end  
125 balance sheet, income statement, statement of cash flow, and  
126 statement of retained earnings and must be submitted to the  
127 agency in addition to the information filed in the uniform  
128 system of financial reporting. The financial statements must tie  
129 to the information submitted in the uniform system of financial  
130 reporting, and a crosswalk must be submitted along with the  
131 financial statements.

132 (6) Within 120 days after the end of its fiscal year, the  
133 home office of each nursing home as defined in s. 408.07 shall  
134 file with the agency, on forms adopted by the agency and based  
135 on the uniform system of financial reporting, its actual  
136 financial experience for that fiscal year, including  
137 expenditures, revenues, and statistical measures. Such data may  
138 be based on internal financial reports that are certified to be  
139 complete and accurate by the chief financial officer of the  
140 nursing home. The actual financial experience of the home office  
141 of a nursing home shall be its audited actual experience. This  
142 audited actual experience must include the fiscal year-end  
143 balance sheet, income statement, statement of cash flow, and  
144 statement of retained earnings and must be submitted to the  
145 agency in addition to the information filed in the uniform

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146 system of financial reporting. The financial statements must tie  
147 to the information submitted in the uniform system of financial  
148 reporting, and a crosswalk must be submitted along with the  
149 audited financial statements.

150 Section 3. This act shall take effect October 1, 2022.