By Senator Harrell

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1 A bill to be entitled
2 An act relating to health care transparency; amending
3 s. 400.141, F.S.; requiring licensed nursing home
4 facilities to report to the Agency for Health Care
5 Administration any common ownership relationships they
6 or their parent companies share with certain entities;
7 requiring the agency to work with stakeholders to
8 determine how to present such information on an easily
9 accessible online dashboard; requiring the online
10 dashboard to be available to the public by a specified
11 date; requiring the online dashboard to include
12 certain information; requiring the agency to submit
13 annual reports of the reported common ownership
14 relationships to the Governor and the Legislature by a
15 specified date; requiring the agency to adopt rules;
16 amending s. 400.211, F.S.; requiring the agency to
17 submit annual reports on the success of the personal
18 care attendant program to the Governor and the
19 Legislature by a specified date; providing
20 specifications for the report; amending s. 409.908,
21 F.S.; revising a specified rate in the prospective
22 payment methodology used for the agency’s long-term
23 care reimbursement plan; requiring the agency to add a
24 quality metric to its Quality Incentive Program for a
25 specified purpose; providing an effective date.
26
27 Be It Enacted by the Legislature of the State of Florida:
28
29 Section 1. Paragraph (x) is added to subsection (1) of

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30 section 400.141, Florida Statutes, to read:
31 400.141 Administration and management of nursing home
32 facilities.—
33 (1) Every licensed facility shall comply with all
34 applicable standards and rules of the agency and shall:
35 (x) Report to the agency any common ownership the facility
36 or its parent company shares with a staffing or management
37 company, a vocational or physical rehabilitation company, or any
38 other company that conducts business within the nursing home
39 facility. The agency shall work with stakeholders to determine
40 how to present this information on an easily accessible online
41 dashboard. The online dashboard must be available to the public
42 by January 1, 2025. The online dashboard must include
43 information required to be reported under this paragraph and
44 other information that will assist families in making better-
45 informed decisions regarding placement of a relative in a
46 nursing home facility. By January 15 of each year, the agency
47 shall submit a report to the Governor, the President of the
48 Senate, and the Speaker of the House of Representatives on all
49 common ownership relationships reported to the agency in the
50 preceding calendar year. The agency shall adopt rules to
51 implement this paragraph.
52 Section 2. Subsection (2) of section 400.211, Florida
53 Statutes, is amended to read:
54 400.211 Persons employed as nursing assistants;
55 certification requirement; qualified medication aide designation
56 and requirements.—
57 (2) The following categories of persons who are not
58 certified as nursing assistants under part II of chapter 464 may

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59 be employed by a nursing facility for a single consecutive
60 period of 4 months:
61 (a) Persons who are enrolled in, or have completed, a
62 state-approved nursing assistant program.
63 (b) Persons who have been positively verified as actively
64 certified and on the registry in another state with no findings
65 of abuse, neglect, or exploitation in that state.
66 (c) Persons who have preliminarily passed the state's
67 certification exam.
68 (d) Persons who are employed as personal care attendants
69 and who have completed the personal care attendant training
70 program developed pursuant to s. 400.141(1)(w). As used in this
71 paragraph, the term "personal care attendants" means persons who
72 meet the training requirement in s. 400.141(1)(w) and provide
73 care to and assist residents with tasks related to the
74 activities of daily living.
75
76 The certification requirement must be met within 4 months after
77 initial employment as a nursing assistant in a licensed nursing
78 facility. On January 1 of each year, the agency shall submit a
79 report to the Governor, the President of the Senate, and the
80 Speaker of the House of Representatives regarding the success of
81 the personal care attendant program under s. 400.141(1)(w),
82 including, but not limited to, the number of personal care
83 attendants who took and passed the certified nursing assistant
84 exam after 4 months of initial employment with a single nursing
85 facility as provided in this subsection; any adverse actions
86 related to patient care involving personal care attendants; the
87 number of certified nursing assistants who are employed and

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88 remain employed each year after completing the personal care
89 attendant program; and the turnover rate of personal care
90 attendants in nursing home facilities.
91 Section 3. Paragraph (b) of subsection (2) of section
92 409.908, Florida Statutes, is amended to read:
93 409.908 Reimbursement of Medicaid providers.—Subject to
94 specific appropriations, the agency shall reimburse Medicaid
95 providers, in accordance with state and federal law, according
96 to methodologies set forth in the rules of the agency and in
97 policy manuals and handbooks incorporated by reference therein.
98 These methodologies may include fee schedules, reimbursement
99 methods based on cost reporting, negotiated fees, competitive
100 bidding pursuant to s. 287.057, and other mechanisms the agency
101 considers efficient and effective for purchasing services or
102 goods on behalf of recipients. If a provider is reimbursed based
103 on cost reporting and submits a cost report late and that cost
104 report would have been used to set a lower reimbursement rate
105 for a rate semester, then the provider's rate for that semester
106 shall be retroactively calculated using the new cost report, and
107 full payment at the recalculated rate shall be effected
108 retroactively. Medicare-granted extensions for filing cost
109 reports, if applicable, shall also apply to Medicaid cost
110 reports. Payment for Medicaid compensable services made on
111 behalf of Medicaid-eligible persons is subject to the
112 availability of moneys and any limitations or directions
113 provided for in the General Appropriations Act or chapter 216.
114 Further, nothing in this section shall be construed to prevent
115 or limit the agency from adjusting fees, reimbursement rates,
116 lengths of stay, number of visits, or number of services, or

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117 making any other adjustments necessary to comply with the
118 availability of moneys and any limitations or directions
119 provided for in the General Appropriations Act, provided the
120 adjustment is consistent with legislative intent.
121 (2)
122 (b) Subject to any limitations or directions in the General
123 Appropriations Act, the agency shall establish and implement a
124 state Title XIX Long-Term Care Reimbursement Plan for nursing
125 home care in order to provide care and services in conformance
126 with the applicable state and federal laws, rules, regulations,
127 and quality and safety standards and to ensure that individuals
128 eligible for medical assistance have reasonable geographic
129 access to such care.
130 1. The agency shall amend the long-term care reimbursement
131 plan and cost reporting system to create direct care and
132 indirect care subcomponents of the patient care component of the
133 per diem rate. These two subcomponents together shall equal the
134 patient care component of the per diem rate. Separate prices
135 shall be calculated for each patient care subcomponent,
136 initially based on the September 2016 rate setting cost reports
137 and subsequently based on the most recently audited cost report
138 used during a rebasing year. The direct care subcomponent of the
139 per diem rate for any providers still being reimbursed on a cost
140 basis shall be limited by the cost-based class ceiling, and the
141 indirect care subcomponent may be limited by the lower of the
142 cost-based class ceiling, the target rate class ceiling, or the
143 individual provider target. The ceilings and targets apply only
144 to providers being reimbursed on a cost-based system. Effective
145 October 1, 2018, a prospective payment methodology shall be

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146 implemented for rate setting purposes with the following
147 parameters:
148 a. Peer Groups, including:
149 (I) North-SMMC Regions 1-9, less Palm Beach and Okeechobee
150 Counties; and
151 (II) South-SMMC Regions 10-11, plus Palm Beach and
152 Okeechobee Counties.
153 b. Percentage of Median Costs based on the cost reports
154 used for September 2016 rate setting:
155 (I) Direct Care Costs...........................100 percent.
156 (II) Indirect Care Costs.........................92 percent.
157 (III) Operating Costs............................86 percent.
158 c. Floors:
159 (I) Direct Care Component....................100 ~~95~~ percent.
160 (II) Indirect Care Component...................92.5 percent.
161 (III) Operating Component..............................None.
162 d. Pass-through Payments.....................Real Estate and
163 ....Personal Property
164 ....Taxes and Property Insurance.
165 e. Quality Incentive Program Payment
166 Pool..................................10 percent of September
167 ....2016 non-property related
168 ....payments of included facilities.
169 f. Quality Score Threshold to Quality for Quality Incentive
170 Payment...20th
171 ....percentile of included facilities.
172 g. Fair Rental Value System Payment Parameters:
173 (I) Building Value per Square Foot based on 2018 RS Means.
174 (II) Land Valuation......10 percent of Gross Building value.

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175 (III) Facility Square Footage.........Actual Square Footage.
176 (IV) Movable Equipment Allowance.............$8,000 per bed.
177 (V) Obsolescence Factor.........................1.5 percent.
178 (VI) Fair Rental Rate of Return...................8 percent.
179 (VII) Minimum Occupancy.........................90 percent.
180 (VIII) Maximum Facility Age.......................40 years.
181 (IX) Minimum Square Footage per Bed.....................350.
182 (X) Maximum Square Footage for Bed......................500.
183 (XI) Minimum Cost of a renovation/replacements.$500 per bed.
184 h. Ventilator Supplemental payment of $200 per Medicaid day
185 of 40,000 ventilator Medicaid days per fiscal year.
186 2. The direct care subcomponent shall include salaries and
187 benefits of direct care staff providing nursing services
188 including registered nurses, licensed practical nurses, and
189 certified nursing assistants who deliver care directly to
190 residents in the nursing home facility, allowable therapy costs,
191 and dietary costs. This excludes nursing administration, staff
192 development, the staffing coordinator, and the administrative
193 portion of the minimum data set and care plan coordinators. The
194 direct care subcomponent also includes medically necessary
195 dental care, vision care, hearing care, and podiatric care.
196 3. All other patient care costs shall be included in the
197 indirect care cost subcomponent of the patient care per diem
198 rate, including complex medical equipment, medical supplies, and
199 other allowable ancillary costs. Costs may not be allocated
200 directly or indirectly to the direct care subcomponent from a
201 home office or management company.
202 4. On July 1 of each year, the agency shall report to the
203 Legislature direct and indirect care costs, including average

204 direct and indirect care costs per resident per facility and
205 direct care and indirect care salaries and benefits per category
206 of staff member per facility.
207 5. Every fourth year, the agency shall rebase nursing home
208 prospective payment rates to reflect changes in cost based on
209 the most recently audited cost report for each participating
210 provider.
211 6. A direct care supplemental payment may be made to
212 providers whose direct care hours per patient day are above the
213 80th percentile and who provide Medicaid services to a larger
214 percentage of Medicaid patients than the state average.
215 7. For the period beginning on October 1, 2018, and ending
216 on September 30, 2021, the agency shall reimburse providers the
217 greater of their September 2016 cost-based rate or their
218 prospective payment rate. Effective October 1, 2021, the agency
219 shall reimburse providers the greater of 95 percent of their
220 cost-based rate or their rebased prospective payment rate, using
221 the most recently audited cost report for each facility. This
222 subparagraph shall expire September 30, 2023.
223 8. Pediatric, Florida Department of Veterans Affairs, and
224 government-owned facilities are exempt from the pricing model
225 established in this subsection and shall remain on a cost-based
226 prospective payment system. Effective October 1, 2018, the
227 agency shall set rates for all facilities remaining on a cost-
228 based prospective payment system using each facility's most
229 recently audited cost report, eliminating retroactive
230 settlements.
231 9. The agency shall add a quality metric to the Quality
232 Incentive Program to measure direct care staff turnover and the

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233 long-term retention of direct care staff for the purpose of
234 recognizing that a stable workforce increases the quality of
235 nursing home resident care, as described in s. 400.235.
236
237 It is the intent of the Legislature that the reimbursement plan
238 achieve the goal of providing access to health care for nursing
239 home residents who require large amounts of care while
240 encouraging diversion services as an alternative to nursing home
241 care for residents who can be served within the community. The
242 agency shall base the establishment of any maximum rate of
243 payment, whether overall or component, on the available moneys
244 as provided for in the General Appropriations Act. The agency
245 may base the maximum rate of payment on the results of
246 scientifically valid analysis and conclusions derived from
247 objective statistical data pertinent to the particular maximum
248 rate of payment. The agency shall base the rates of payments in
249 accordance with the minimum wage requirements as provided in the
250 General Appropriations Act.
251 Section 4. This act shall take effect upon becoming a law.

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