

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 170

INTRODUCER: Appropriations Committee on Health and Human Services Committee; Health Policy Committee; and Senator Burton

SUBJECT: Quality of Care in Nursing Homes

DATE: April 1, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Barr</u>	<u>McKnight</u>	<u>AHS</u>	<u>Fav/CS</u>
3.	<u>Barr</u>	<u>Sadberry</u>	<u>AP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 170 amends several sections related to the regulation of nursing homes. Specifically, the bill:

- Requires the Agency for Health Care Administration (AHCA) to develop user-friendly consumer satisfaction surveys to capture resident and family member satisfaction with the care provided by nursing homes;
- Requires each nursing home’s medical director to be certified by the American Medical Directors Association or have a similar credential recognized by the AHCA;
- Requires each nursing home to conduct a patient safety culture survey at least biennially and to include the results in the facilities Nursing Home Guide;
- Provides that each nursing home that maintains electronic health records must make available all admission, transfer, and discharge data to the Florida Health Information Exchange program;
- Exempts state-owned facilities from the requirement to submit specific data to Florida Nursing Home Uniform Reporting System (FNHURS);
- Requires the AHCA to impose a \$10,000 fine against a nursing home or the home office of a nursing home that fails to submit financial data to the FNHURS; and
- Requires the AHCA to report to the Governor and the Legislature on payments made under the Medicaid Quality Incentive Program (QIP). The report must include trends in the improvement of the quality of care that may be attributable to the payments made under the QIP.

- Requires the AHCA to contract with a third-party vendor to conduct a comprehensive study of nursing home quality improvement programs in other states and provide a report to the Governor and the Legislature by December 1, 2025.

The bill has a significant, negative impact on state expenditures and an indeterminate positive impact on state revenues. **See Section V. Fiscal Impact Statement**

The bill takes effect July 1, 2025

II. Present Situation:

Nursing Homes

Nursing homes in Florida are licensed under Part II of ch. 400, F.S., and provide 24-hour-a-day nursing care, case management, health monitoring, personal care, nutritional meals and special diets, physical, occupational, and speech therapy, social activities and respite care for those who are ill or physically infirm.¹ Currently, there are 696 nursing homes licensed in Florida.² Of the 696 licensed nursing homes, 668 are certified to accept Medicare or Medicaid and consequently must follow federal Centers for Medicare & Medicaid Services (CMS) requirements for nursing homes.³

Nursing Home Medical Directors

Florida administrative code requires that each nursing home have only one physician, who is licensed under ch. 458 or ch. 459, F.S., that is designated as its medical director.⁴ If the medical director does not have hospital privileges, he or she is required to be certified or credentialed through a recognized certifying or credentialing body, such as The Joint Commission, the American Medical Directors Association, the Healthcare Facilities Accreditation Program of the American Osteopathic Association, the Bureau of Osteopathic Specialists of the American Osteopathic Association, the Florida Medical Directors Association or a health maintenance organization licensed in Florida.⁵ One physician may be the medical director of up to 10 nursing homes at any one time and must have his or her principal office within 60 miles of all facilities for which he or she serves as medical director.⁶

The medical director is required to visit each facility at least once a month, meet quarterly with the risk management and quality assurance committee of each facility, and must review for each facility:

- All new policies and procedures;
- All new incident and accident reports to identify clinic risk and safety hazards;

¹ Agency for Health Care Administration webpage, nursing homes, available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Long_Term_Care/Nursing_Homes.shtml (last visited Feb. 28, 2025).

² Florida Health Finder Report, available at <https://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (last visited Feb. 28, 2025).

³ *Id.* Search for nursing homes that accept Medicaid or Medicare as payment.

⁴ Fla. Admin. Code R. 59A-4.1075 (2015).

⁵ *Id.*

⁶ *Id.* Note: if the facility is a rural nursing home, the AHCA may approve a request to waive the distance requirement.

- The most recent grievance logs for any complaints or concerns related to clinical issues.⁷

Additionally, the medical director must participate in the development of the comprehensive care plan for any resident for whom he or she is the attending physician.⁸

Nursing Home Financial Reports

Nursing homes are required to submit financial data to the AHCA pursuant to s. 408.061 (5)-(6), F.S. These provisions were added in 2021 by SB 2518 (ch. 2021-41, L.O.F.) and mirror provisions in current law that require other health care facilities to submit such data.⁹ Prior to July 1, 2021, nursing homes were exempt from this reporting requirement.

A nursing home must report, within 120 days after the end of its fiscal year, its actual financial experience for that fiscal year, including expenditures, revenues, and statistical measures. Such data may be based on internal financial reports that are certified to be complete and accurate by the chief financial officer of the nursing home. This actual experience must be audited and must include the fiscal year-end balance sheet, income statement, statement of cash flow, and statement of retained earnings and must be submitted to the AHCA in addition to the information filed in the Florida Nursing Home Uniform Reporting System (FNHURS).

The final rule for implementation of the FNHURS became effective November 1, 2023, and required nursing homes to begin submitting data to the FNHURS 30 days after that date in accordance with the end of each nursing home's fiscal year.¹⁰ As of March 17, 2025, at least 536 of the 696 nursing homes had submitted to the AHCA.¹¹

Medicaid Quality Incentive Program

The Medicaid Quality Incentive Program (QIP) was established to ensure continued quality of care in nursing home facilities.¹² Nursing homes providers submit quality data directly to the federal Centers for Medicare and Medicaid Services, and the AHCA uses this information to rank all providers by 16 quality measures.¹³ The quality metrics used include¹⁴:

- **Process Measures**, which include flu vaccine, antipsychotic medication, and restraint quality metrics.
 - Providers whose fourth quarter measure score is at or above the 90th percentile for a particular measure will be awarded 3 points, those scoring from the 75th up to 90th percentiles will be awarded 2 points, and those scoring from the 50th up to 75th percentiles will receive 1 point.

⁷ Fla. Admin. Code R. 59A-4.1075 (2015).

⁸ *Id.*

⁹ See s. 408.061(4), F.S.

¹⁰ Fla. Admin. Code R. 59E-4.102 (2023).

¹¹ Email from Jim Browne, Legislative Affairs Director, Agency for Health Care Administration, to Cynthia Barr, Chief Legislative Analyst, Senate Appropriations Committee on Health and Human Services (Mar. 18, 2025) (on file with the Senate Appropriations Committee on Health and Human Services).

¹² ch. 2017-129, s. 8, Laws of Fla.

¹³ Email from Jim Browne, Legislative Affairs Director, Agency for Health Care Administration, to Cynthia Barr, Chief Legislative Analyst, Senate Appropriations Committee on Health and Human Services (Feb. 25, 2025) (on file with the Senate Appropriations Committee on Health and Human Services).

¹⁴ Fla. Admin. Code R. 59G-6.010(2)(y)(2021).

- Providers who score below the 50th percentile and achieve a 20 percent improvement from the previous year will receive 0.5 points.
- **Outcome Measures**, which include urinary tract infections, pressure ulcers, falls, incontinence, and decline in activities of daily living quality metrics.
 - Outcome Measures are scored and percentiles are calculated using the same methodology as Process Measures.
- **Structure Measures**, which include direct care staffing from the Medicaid cost report received by the rate setting cutoff date and social work and activity staff.
 - Structure Measures are scored and percentiles are calculated using the same methodology as Process Measures and Outcome Measures.
- **Credentialing Measures** which include CMS Overall 5-Star, Florida Gold Seal, Joint Commission Accreditation, and American Health Care Association National Quality Award.
 - Facilities assigned a rating of 3, 4, or 5 stars in the CMS 5- Star program will receive 1, 3, or 5 points, respectively.
 - Facilities that have either a Florida Gold Seal, Joint Commission Accreditation, or the silver or gold American Health Care Association National Quality Award on May 31 of the current year will be awarded 5 points.

By statute, nursing homes must meet the minimum threshold of the 20 percentile of included facilities to receive a quality incentive add-on payment, which is set at 10 percent of the 2016 non-property related payments of included facilities.¹⁵ In the 2023-2024 federal fiscal year, the incentive pool totaled \$316 million with 534 of the 655 active providers receiving a quality incentive add-on to their rate.¹⁶

Patient Safety Culture Surveys

Patient safety culture refers to the values, beliefs, and norms that are shared by health care practitioners and other staff throughout the organization that influence their actions and behaviors to support and promote patient safety. Patient safety culture can be measured by determining the values, beliefs, norms, and behaviors related to patient safety that are rewarded, supported, expected, and accepted in an organization. Culture exists at multiple levels, from the unit level to the department, organization, and system levels.¹⁷

The federal Agency for Health Care Research and Quality (AHRQ) has developed a “Survey on Patient Safety Culture” (SOPS) program which develops and supports surveys of providers and staff that assess the extent to which their organizational culture supports patient safety and safe practices. All the SOPS surveys include a standard set of core items with comparable survey content across facilities and have been developed for the following settings of care:

- Hospitals.
- Medical Offices.
- Nursing Homes.

¹⁵ Sections 409.908(2)(b)1.e. and f.

¹⁶ Email from Jim Browne, Legislative Affairs Director, Agency for Health Care Administration, to Cynthia Barr, Chief Legislative Analyst, Senate Appropriations Committee on Health and Human Services (Feb. 25, 2025) (on file with the Senate Appropriations Committee on Health and Human Services).

¹⁷ What is Patient Safety Culture?, AHRQ, June 2024, available at <https://www.ahrq.gov/sops/about/patient-safety-culture.html>, (last visited Feb. 28, 2025).

- Community Pharmacies.
- Ambulatory Surgery Centers.

The SOPS Program also offers optional supplemental item sets that can be added to the core surveys to assess additional content areas focusing on health information technology, patient safety, workplace safety, value and efficiency, and diagnostic safety.

SOPS surveys and supplemental item sets undergo a rigorous development and testing process. Because the surveys ask questions that have been developed and pilot tested using a consistent methodology across a large sample of respondents, they are standardized and validated measures of patient safety culture.¹⁸ The areas that are assessed by the SOPS include:

- Communication About Error.
- Communication Openness.
- Organizational Learning—Continuous Improvement.
- Overall Rating on Patient Safety.
- Response to Error.
- Staffing.
- Supervisor and Management Support for Patient Safety.
- Teamwork.
- Work Pressure and Pace.¹⁹

Research has shown that significant relationships exist between SOPS patient safety culture scores and important health care delivery measures and outcomes. Some key findings based on studies that administered SOPS surveys include the following:

- Hospital units with more positive SOPS scores had:
 - *Fewer* hospital-acquired pressure ulcers and patient falls.
 - *Lower* surgical site infection rates.
- Hospitals with more positive SOPS scores had:
 - *Lower* rates of in-hospital complications or adverse events as measured by AHRQ's patient safety indicators (PSIs).
 - Patients who reported *more positive* experiences with care.
- Nursing homes with more positive SOPS scores had:
 - *Higher* Centers for Medicare & Medicaid Services (CMS) Nursing Home Five-Star Quality ratings.
 - *Lower* risks of resident falls, long-stay urinary tract infections, and short stay ulcers.²⁰

Florida law requires hospitals and ambulatory surgical centers (ASC) to conduct, at least biennially, a patient safety culture survey using the SOPS.²¹ In order to implement the requirement, the AHCA has customized the AHRQ's patient safety survey instruments, and

¹⁸ What is Patient Safety Culture?, AHRQ, June 2024, available at <https://www.ahrq.gov/sops/about/patient-safety-culture.html>, (last visited Feb. 28, 2025).

¹⁹ *Id.*

²⁰ *Id.*

²¹ Section 395.1012(4), F.S.

developed a database application to facilitate the required submission of patient safety culture survey data from Florida hospitals and ASCs to the agency as statutorily mandated.²²

Florida's Health Information Exchange Program

Founded in 2011, the Florida Health Information Exchange (FHIE) facilitates the secure statewide exchange of health information between health care providers, hospital systems, and payers. The AHCA governs the FHIE by establishing policy, convening stakeholders, providing oversight, engaging federal partners, and promoting the benefits of health information technology.

The FHIE electronically makes patient health information available to doctors, nurses, hospitals, and health care organizations when needed for patient care. The exchange of patient information is protected through strict medical privacy and confidential procedures. The FHIE is designed to improve the speed, quality, safety, and cost of patient care.

As part of the FHIE Services, Florida has developed an Encounter Notification Service (ENS) that delivers real-time notifications based off of Admit, Discharge, and Transfer (ADT) data from participating health care facilities. This data is provided to authorize health care entities to improve patient care coordination.²³

III. Effect of Proposed Changes:

Section 1 reenacts and amends s. 400.0225, F.S., to require the Agency for Health Care Administration (AHCA) to develop user-friendly consumer satisfaction surveys to capture resident and family member satisfaction with care provided by nursing home facilities. The surveys must be based on a core set of consumer satisfaction questions to allow for consistent measurement and must be administered annually to a random sample of long-stay and short-stay residents of each facility and their family members. The survey tool must be based on an agency-validated survey instrument whose measures have received an endorsement by the National Quality Forum. The AHCA is required under the bill to:

- Specify the protocols for conducting the consumer satisfaction surveys, ensuring survey validity, reporting survey results, and protecting the identity of individual respondents; and
- Make aggregated survey data available to consumers on the agency's website in a manner that allows for comparison between nursing home facilities.

The bill allows family members, guardians, or other resident designees to assist a resident in completing the survey and also prohibits employees and volunteers of the nursing home, or of a corporation or business entity with and ownership interest in the nursing home, from attempting to influence a resident's responses to the survey.

²² Patient Safety Survey System User Guide, 2024, available at https://ahca.myflorida.com/content/download/25680/file/PSCS%20System%20Guide_2022%2824%29EP.pdf, (last visited Feb. 28, 2025).

²³ Agency for Health Care Administration, *Senate Bill 7016 (2024) Analysis*. (on file with the Senate Committee on Health Policy).

Section 2 amends s. 400.141, F.S., to require the medical director of each nursing home facility to obtain designation as a certified medical director by the American Medical Directors Association, hold a similar credential bestowed by an organization recognized by the AHCA, or be in the process of seeking such designation or credentialing, according to parameters adopted by agency rule, by January 1, 2026. The bill also requires the AHCA to include the name of each nursing home's medical director on the facility's provider profile published on the AHCA's website.

The bill also requires each nursing home to conduct, at least biennially, a patient safety culture survey using the applicable survey on patient culture developed by the federal Agency for Health Care Research and Quality. The bill requires each facility to conduct the survey anonymously and allows facilities to contract with a third party to administer the survey. The survey data, including participation rates, must be submitted to the AHCA biennially and each facility must develop an internal action plan between surveys to improve survey results and submit the plan to the AHCA.

Section 3 amends s. 400.191, F.S., to require the AHCA to include the results of the consumer satisfaction surveys in its Nursing Home Guide.

Section 4 amends s. 408.051, F.S., to require each nursing home that maintains certified electronic health records technology to make available all admit, transfer, and discharge data to the FHIE. The bill allows the AHCA to adopt rules to implement this subsection.

Section 5 amends s. 408.061, F.S., to specify that, beginning January 1, 2026, the AHCA is required to impose an administrative fine of \$10,000 per violation²⁴ against a nursing home or the home office of a nursing home that fails to comply with the requirement to submit specified audited financial data to the Florida Nursing Home Uniform Reporting System (FNHURS). Additionally, the bill specifies that failing to file the report during any subsequent 10-day period occurring after the due date constitutes a separate violation until the report has been submitted.

The bill requires the AHCA to adopt rules to implement the fine and requires the rules to include provisions for a home office to present factors in mitigation of the imposition of the fine's full dollar amount. The AHCA may determine not to impose the fine's full dollar amount upon a demonstration that the full fine is inappropriate under the circumstances.

The bill also exempts state-owned nursing homes from the FNHURS reporting requirement under current law in s. 408.061(5) and (6), F.S.

Section 6 clarifies that a facility that is fined under s. 408.061, F.S., for an FNHURS violation, as described above, may not also be fined for such violation under s. 408.08, F.S.

Section 7 amends s. 409.908, F.S., to require the AHCA to, by October 1, 2025, and each year thereafter, submit a report to the Governor and the Legislature on each Medicaid Quality Incentive Program (QIP) payment made. The report must, at a minimum, include:

²⁴ The bill, for purposes of this fine, defines "violation" to mean failing to file the financial report required on or before the report's due date.

- The name of each facility that received a QIP payment and the dollar amount of such payment each facility received.
- The total number of quality incentive metric points awarded by the agency to each facility and the number of points awarded by the agency for each individual quality metric measured.
- An examination of any trends in the improvement of the quality of care provided to nursing home residents which may be attributable to incentive payments received under the QIP. The AHCA is required to include an examination of trends both for the program as a whole as well as for each individual quality metric used by the AHCA to award program payments.

Section 8 requires the AHCA to contract with a third-party vendor to complete a comprehensive study of nursing home quality incentive programs in other states. The study must include a detailed analysis of quality incentive programs, identify components of programs that have improved quality outcomes, and make recommendations to modify or enhance Florida's existing Medicaid Quality Incentive Program. The study must also include a review of technologies applicable to nursing home care and payment structures related to ventilator care, bariatric services, and behavioral health services. The final report must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2025.

Section 9 provides that the bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 170 may have an indeterminate, negative fiscal impact on nursing homes that are required to conduct surveys, meet additional requirements, or that are fined for not submitting Florida Nursing Home Uniform Reporting System data as required.

The bill may have an indeterminate, negative fiscal impact on nursing home medical directors who are required to obtain certification under the bill's requirements.

C. Government Sector Impact:

The Agency for Health Care Administration (AHCA) estimates the bill will have a significant negative fiscal impact on state expenditures. The AHCA estimates a cost of \$356,500 to implement the Nursing Home Patient Satisfaction Survey and the Nursing Home Patient Safety Culture Survey required in this bill. The agency will also require \$140,500 annually to maintain, enhance, and secure endorsements for these surveys.²⁵

The comprehensive study of nursing home quality incentive plans will require an estimated \$1,500,000 to complete.²⁶

New fines created under this bill for nursing homes that fail to submit required data will have an indeterminate positive fiscal impact on state revenues and could offset a portion of the expenditure impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.0225, 400.141, 400.191, 408.051, 408.061, 408.08, and 409.908.

²⁵ Agency for Health Care Administration, *Senate Bill 170 Analysis* (Feb. 28, 2025) (on file with Senate Committee on Health Policy).

²⁶ Email from Kristin Sokoloski, Deputy Chief of Staff, Agency for Health Care Administration to Brooke McKnight, Staff Director, Senate Appropriations Committee on Health and Human Services (March 21, 2025) (On file with Senate Appropriations Committee on Health and Humans Services).

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations Committee on Health and Human Services on March 26, 2025:

The committee substitute:

- Exempts state-owned facilities from Florida Nursing Home Uniform Reporting System requirements under current law in s. 408.061(5) and (6), F.S;
- Clarifies the language regarding the avoidance of duplicative fines under s. 408.08(2), F.S.;
- Directs the Agency for Health Care Administration (AHCA) to include the result of customer satisfaction surveys as a quality measure when sufficient data has been collected to be statistically valid; and
- Requires the AHCA to commission a study on other state's quality incentive payment programs and submit a report to the Governor and Legislature by December 1, 2025.

CS by Health Policy on March 4, 2025:

The CS applies the bill's fine for a Florida Nursing Home Uniform Reporting System (FNHURS) violation to individual nursing homes as well as the home office of a nursing home, instead of solely to home offices as in the underlying bill. Both are required to file FNHURS reports under current law in s. 408.061(5) and (6), F.S.

B. Amendments:

None.