

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 Health Policy

BILL: SB 170

INTRODUCER: Senator Burton

SUBJECT: Quality of Care in Nursing Homes

DATE: March 3, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Pre-meeting
2.			AHS	
3.			AP	

I. Summary:

SB 170 amends several sections related to the regulation of nursing homes to:

- Require 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;
- Require each nursing home’s medical director to be certified by the American Medical Directors Association or have a similar credential recognized by the AHCA;
- Require each nursing home to conduct a patient safety culture survey at least biennially;
- Provide that each nursing home that maintains electronic health records must make available all admit, transfer, and discharge data to the Florida Health Information Exchange (FHIE) program;
- Require the AHCA to impose a \$10,000 fine against a nursing home’s home office that fails to submit financial data to the Florida Nursing Home Uniform Reporting System (FNHURS); and
- Require 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.

The bill provides an effective date of 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 law 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 also review for each facility:

- All new policies and procedures;
- All new incident and accident reports to identify clinic risk and safety hazards;
- The most recent grievance logs for any complains 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. 408.06 (5)-(6), F.S. These provisions were added in 2021 by SB 2518 (Chapter 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.

¹ AHCA 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 Rule 59A-4.1075, F.A.C.

⁵ *Id.*

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

⁷ *Id.*

⁸ *Id.*

⁹ *See* s. 408.061(4), F.S.

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 FNHURS.

AHCA rule 59E-4.102, F.A.C., implementing 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. As of November 13, 2024, at least 488 of the 696 nursing homes had submitted to the AHCA.¹⁰

Medicaid Quality Incentive Program

Section 409.908(2)(b)1.e. and f. create the nursing home Medicaid QIP. The payments for nursing homes that meet the minimum threshold of the 20 percentile of included facilities are set at 10 percent of the 2016 non-property related payments of included facilities. In Rule 59G-6.010(1)(y), F.A.C., the AHCA established a point system to determine which nursing homes qualify for the QIP payments based on specified quality metrics. The quality metrics used include:

- **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.
 - 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.

¹⁰ Email from AHCA, received on July 10, 2024. On file with Senate Health Policy Committee.

Patient Safety Culture Surveys

Patient safety culture is the extent to which an organization's culture supports and promotes patient safety. It 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. 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. It is also important to note that culture exists at multiple levels, from the unit level to the department, organization, and system levels.¹¹

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 of the SOPS surveys include a standard set of core items with comparable survey content across facilities. SOPS surveys have been developed for the following settings of care:

- Hospitals.
- Medical Offices.
- Nursing Homes.
- 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.¹² 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.¹³

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:

¹¹ 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).

¹² *Id.*

¹³ *Id.*

- 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.¹⁴

Florida law requires hospitals and ambulatory surgical centers (ASC) to conduct, at least biennially, a patient safety culture survey using the SOPS.¹⁵ In order to implement the requirement, the AHCA has customized the AHRQ's patient safety survey instruments, and developed a database application to facilitate the required submission of PSCS data from Florida hospitals and ASCs to the agency as statutorily mandated.¹⁶

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 AHCA's 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.¹⁷

III. Effect of Proposed Changes:

SB 170 amends several sections of the Florida Statutes related to nursing homes.

¹⁴ *Id.*

¹⁵ Section 395.1012(4), F.S.

¹⁶ 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).

¹⁷ AHCA analysis document for SB 7016 (2024), on file with Senate Health Policy Committee.

Consumer Satisfaction Surveys

The bill reenacts and amends s. 400.0225, F.S., to require that the 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.

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

Medical Directors

The bill 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.

Patient Safety Culture Surveys

The bill amends s. 400.141, F.S., to require each nursing home to conduct, at least biennially, a patient safety culture survey using the applicable SOPS developed by the federal ARHQ. 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 also submit the plan to the AHCA.

Florida Health Information Exchange

The bill 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 AHCA's FHIE. The bill allows the AHCA to adopt rules to implement this subsection.

FNHURS Fine

The bill 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 violation¹⁸ against a home office that fails to comply with the requirement to submit specified audited financial data to the 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 showing that the full fine is inappropriate under the circumstances.

Quality Incentive Program Reporting

The bill 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 QIP payment made. The report must, at a minimum, include:

- 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.

The bill provides an effective date of July 1, 2025.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁸ 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.

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:

SB 170 may have an indeterminate negative fiscal impact on nursing homes that are required to conduct surveys, meet additional requirements as created by the bill, or that are fined for not submitting FNHURS 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 AHCA estimates that SB 170 will have a negative fiscal impact on the AHCA of \$356,500 for state fiscal year 2025-2026 and \$140,500 for each of fiscal years 2026-2027 and 2027-2028.¹⁹

It is possible that some of this negative fiscal impact may be offset by additional fines against nursing homes that do not submit FNHURS data timely.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 170 in lines 241-255 creates a new required fine for the home offices of nursing homes that fail to file FNHURS data in a timely manner but does not apply the fine to nursing home facilities. Section 408.061(5) and (6), requires both nursing home facilities and the home offices of nursing homes to file FNHURS data, respectively. It may be advisable to apply the fine both to subsections (5) and (6) of s. 408.061, F.S. Additionally, s. 408.08, F.S., currently provides a fine for any facility that fails to file data required under s. 408.061, F.S. Given the creation of the new fine, it may be advisable to exempt nursing homes and their home offices from the fine in s. 408.08, F.S., if they are fined under the bill's new provisions.

¹⁹ AHCA analysis of SB 170, on file with Senate Health Policy Committee.

VIII. Statutes Affected:

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

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
