

By Senator Burton

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1 A bill to be entitled
2 An act relating to the quality of care in nursing
3 homes; reviving, reenacting, and amending s. 400.0225,
4 F.S., relating to consumer satisfaction surveys;
5 requiring the Agency for Health Care Administration to
6 develop user-friendly consumer satisfaction surveys
7 for nursing home facilities; specifying requirements
8 for the surveys; authorizing family members,
9 guardians, and other resident designees to assist the
10 resident in completing the survey; prohibiting
11 employees and volunteers of the facility or of a
12 corporation or business entity with an ownership
13 interest in the facility from attempting to influence
14 a resident's responses to the survey; requiring the
15 agency to specify certain protocols for administration
16 of the survey; requiring the agency to publish on its
17 website aggregated survey data in a manner that allows
18 for comparison between nursing home facilities;
19 amending s. 400.141, F.S.; requiring medical directors
20 of nursing home facilities to obtain, or to be in the
21 process of obtaining, certain qualifications by a
22 specified date; requiring the agency to include such
23 medical director's name on each nursing home
24 facility's online provider profile; requiring nursing
25 home facilities to conduct biennial patient safety
26 culture surveys; specifying requirements for
27 administration of such surveys; requiring nursing home
28 facilities to submit the results of such surveys
29 biennially to the agency in a format specified by

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30 agency rule; authorizing nursing home facilities to
31 develop an internal action plan between surveys to
32 identify measures for improvement of the survey and
33 submit such plan to the agency; amending s. 400.191,
34 F.S.; requiring the agency to include the results from
35 specified consumer satisfaction surveys as part of the
36 Nursing Home Guide on its website; amending s.
37 408.051, F.S.; requiring nursing home facilities that
38 maintain certain electronic health records to make
39 available certain data to the agency's Florida Health
40 Information Exchange program for a specified purpose;
41 authorizing the agency to adopt rules; amending s.
42 408.061, F.S.; requiring the agency to impose
43 administrative fines against home offices of nursing
44 homes for failing to comply with certain reporting
45 requirements; defining the term "violation"; providing
46 construction; requiring the agency to adopt rules;
47 providing requirements for such rules; amending s.
48 409.908, F.S.; requiring the agency to submit an
49 annual report to the Governor and the Legislature on
50 payments made under the Quality Incentive Program;
51 specifying requirements for the report; providing an
52 effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. Notwithstanding the repeal of section 400.0225,
57 Florida Statutes, in section 14 of chapter 2001-377, Laws of
58 Florida, that section is revived, reenacted, and amended to

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59 read:

60 400.0225 Consumer satisfaction surveys.-

61 (1) The agency shall develop user-friendly consumer
62 satisfaction surveys to capture resident and family member
63 satisfaction with care provided by nursing home facilities. The
64 consumer satisfaction surveys must be based on a core set of
65 consumer satisfaction questions to allow for consistent
66 measurement and must be administered annually to a random sample
67 of long-stay and short-stay residents of each facility and their
68 family members. The survey tool must be based on an agency-
69 validated survey instrument whose measures have received an
70 endorsement by the National Quality Forum.

71 (2) Family members, guardians, or other resident designees
72 may assist a resident in completing the consumer satisfaction
73 survey.

74 (3) Employees and volunteers of the nursing home facility
75 or of a corporation or business entity with an ownership
76 interest in the nursing home facility are prohibited from
77 attempting to influence a resident's responses to the consumer
78 satisfaction survey.

79 (4) The agency shall specify the protocols for conducting
80 the consumer satisfaction surveys, ensuring survey validity,
81 reporting survey results, and protecting the identity of
82 individual respondents. The agency shall make aggregated survey
83 data available to consumers on the agency's website pursuant to
84 s. 400.191(2)(a)15. in a manner that allows for comparison
85 between nursing home facilities, ~~or its contractor, in~~
86 consultation with the nursing home industry and consumer
87 representatives, shall develop an easy to use consumer

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88 ~~satisfaction survey, shall ensure that every nursing facility~~
89 ~~licensed pursuant to this part participates in assessing~~
90 ~~consumer satisfaction, and shall establish procedures to ensure~~
91 ~~that, at least annually, a representative sample of residents of~~
92 ~~each facility is selected to participate in the survey. The~~
93 ~~sample shall be of sufficient size to allow comparisons between~~
94 ~~and among facilities. Family members, guardians, or other~~
95 ~~resident designees may assist the resident in completing the~~
96 ~~survey. Employees and volunteers of the nursing facility or of a~~
97 ~~corporation or business entity with an ownership interest in the~~
98 ~~facility are prohibited from assisting a resident with or~~
99 ~~attempting to influence a resident's responses to the consumer~~
100 ~~satisfaction survey. The agency, or its contractor, shall survey~~
101 ~~family members, guardians, or other resident designees. The~~
102 ~~agency, or its contractor, shall specify the protocol for~~
103 ~~conducting and reporting the consumer satisfaction surveys.~~
104 ~~Reports of consumer satisfaction surveys shall protect the~~
105 ~~identity of individual respondents. The agency shall contract~~
106 ~~for consumer satisfaction surveys and report the results of~~
107 ~~those surveys in the consumer information materials prepared and~~
108 ~~distributed by the agency.~~

109 (5) The agency may adopt rules ~~as necessary~~ to implement
110 ~~administer~~ this section.

111 Section 2. Paragraph (b) of subsection (1) of section
112 400.141, Florida Statutes, is amended, and paragraph (x) is
113 added to that subsection, to read:

114 400.141 Administration and management of nursing home
115 facilities.—

116 (1) Every licensed facility shall comply with all

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117 applicable standards and rules of the agency and shall:

118 (b) Appoint a medical director licensed pursuant to chapter
119 458 or chapter 459. By January 1, 2026, the medical director of
120 each nursing home facility must obtain designation as a
121 certified medical director by the American Medical Directors
122 Association, hold a similar credential bestowed by an
123 organization recognized by the agency, or be in the process of
124 seeking such designation or credentialing, according to
125 parameters adopted by agency rule. The agency shall include the
126 name of each nursing home facility's medical director on the
127 facility's provider profile published by the agency on its
128 website. The agency may establish by rule more specific criteria
129 for the appointment of a medical director.

130 (x) Conduct, at least biennially, a patient safety culture
131 survey using the applicable Survey on Patient Safety Culture
132 developed by the federal Agency for Healthcare Research and
133 Quality. Each facility shall conduct the survey anonymously to
134 encourage completion of the survey by staff working in or
135 employed by the facility. A facility may contract with a third
136 party to administer the survey. Each facility shall biennially
137 submit the survey data to the agency in a format specified by
138 agency rule, which must include the survey participation rate.
139 Each facility may develop an internal action plan between
140 conducting surveys to identify measures to improve the survey
141 and submit such plan to the agency.

142 Section 3. Paragraph (a) of subsection (2) of section
143 400.191, Florida Statutes, is amended to read:

144 400.191 Availability, distribution, and posting of reports
145 and records.-

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146 (2) The agency shall publish the Nursing Home Guide
147 quarterly in electronic form to assist consumers and their
148 families in comparing and evaluating nursing home facilities.

149 (a) The agency shall provide an Internet site which must
150 ~~shall~~ include at least the following information either directly
151 or indirectly through a link to another established site or
152 sites of the agency's choosing:

153 1. A section entitled "Have you considered programs that
154 provide alternatives to nursing home care?" which must ~~shall~~ be
155 the first section of the Nursing Home Guide and must ~~which shall~~
156 prominently display information about available alternatives to
157 nursing homes and how to obtain additional information regarding
158 these alternatives. The Nursing Home Guide must ~~shall~~ explain
159 that this state offers alternative programs that allow ~~permit~~
160 qualified elderly persons to stay in their homes instead of
161 being placed in nursing homes and must ~~shall~~ encourage
162 interested persons to call the Comprehensive Assessment Review
163 and Evaluation for Long-Term Care Services (CARES) Program to
164 inquire as to whether ~~if~~ they qualify. The Nursing Home Guide
165 must ~~shall~~ list available home and community-based programs and
166 must ~~which shall~~ clearly state the services that are provided,
167 including and indicate whether nursing home services are covered
168 under those programs when necessary ~~included if needed~~.

169 2. A list by name and address of all nursing home
170 facilities in this state, including any prior name by which a
171 facility was known during the previous 24-month period.

172 3. Whether such nursing home facilities are proprietary or
173 nonproprietary.

174 4. The current owner of the facility's license and the year

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175 that that entity became the owner of the license.

176 5. The name of the owner or owners of each facility and
177 whether the facility is affiliated with a company or other
178 organization owning or managing more than one nursing facility
179 in this state.

180 6. The total number of beds in each facility and the most
181 recently available occupancy levels.

182 7. The number of private and semiprivate rooms in each
183 facility.

184 8. The religious affiliation, if any, of each facility.

185 9. The languages spoken by the administrator and staff of
186 each facility.

187 10. Whether or not each facility accepts Medicare or
188 Medicaid recipients or insurance, health maintenance
189 organization, United States Department of Veterans Affairs,
190 CHAMPUS program, or workers' compensation coverage.

191 11. Recreational and other programs available at each
192 facility.

193 12. Special care units or programs offered at each
194 facility.

195 13. Whether the facility is a part of a retirement
196 community that offers other services pursuant to part III of
197 this chapter or part I or part III of chapter 429.

198 14. Survey and deficiency information, including all
199 federal and state recertification, licensure, revisit, and
200 complaint survey information, for each facility. For
201 noncertified nursing homes, state survey and deficiency
202 information, including licensure, revisit, and complaint survey
203 information, shall be provided.

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204 15. The results of consumer satisfaction surveys conducted
205 pursuant to s. 400.0225.

206 Section 4. Present subsections (6) and (7) of section
207 408.051, Florida Statutes, are redesignated as subsections (7)
208 and (8), respectively, and a new subsection (6) is added to that
209 section, to read:

210 408.051 Florida Electronic Health Records Exchange Act.—

211 (6) NURSING HOME DATA.—A nursing home facility as defined
212 in s. 400.021 which maintains certified electronic health record
213 technology shall make available all admit, transfer, and
214 discharge data to the agency's Florida Health Information
215 Exchange program for the purpose of supporting public health
216 data registries and patient care coordination. The agency may
217 adopt rules to implement this subsection.

218 Section 5. Subsection (6) of section 408.061, Florida
219 Statutes, is amended to read:

220 408.061 Data collection; uniform systems of financial
221 reporting; information relating to physician charges;
222 confidential information; immunity.—

223 (6)(a) Within 120 days after the end of its fiscal year,
224 the home office of each nursing home as defined in s. 408.07
225 shall file with the agency, on forms adopted by the agency and
226 based on the uniform system of financial reporting, its actual
227 financial experience for that fiscal year, including
228 expenditures, revenues, and statistical measures. Such data may
229 be based on internal financial reports that are certified to be
230 complete and accurate by the chief financial officer of the
231 nursing home. However, the home office's actual financial
232 experience shall be its audited actual experience. This audited

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233 actual experience must include the fiscal year-end balance
234 sheet, income statement, statement of cash flow, and statement
235 of retained earnings and must be submitted to the agency in
236 addition to the information filed in the uniform system of
237 financial reporting. The financial statements must tie to the
238 information submitted in the uniform system of financial
239 reporting, and a crosswalk must be submitted along with the
240 audited financial statements.

241 (b)1. Beginning January 1, 2026, the agency shall impose an
242 administrative fine of \$10,000 per violation against a home
243 office that fails to comply with paragraph (a). For purposes of
244 this paragraph, the term "violation" means failing to file the
245 financial report required by paragraph (a) on or before the
246 report's due date. Failing to file the report during any
247 subsequent 10-day period occurring after the due date
248 constitutes a separate violation until the report has been
249 submitted.

250 2. The agency shall adopt rules to implement this
251 paragraph. The rules must include provisions for a home office
252 to present factors in mitigation of the imposition of the fine's
253 full dollar amount. The agency may determine not to impose the
254 fine's full dollar amount upon a showing that the full fine is
255 inappropriate under the circumstances.

256 Section 6. Paragraph (b) of subsection (2) of section
257 409.908, Florida Statutes, is amended to read:

258 409.908 Reimbursement of Medicaid providers.—Subject to
259 specific appropriations, the agency shall reimburse Medicaid
260 providers, in accordance with state and federal law, according
261 to methodologies set forth in the rules of the agency and in

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262 policy manuals and handbooks incorporated by reference therein.
263 These methodologies may include fee schedules, reimbursement
264 methods based on cost reporting, negotiated fees, competitive
265 bidding pursuant to s. 287.057, and other mechanisms the agency
266 considers efficient and effective for purchasing services or
267 goods on behalf of recipients. If a provider is reimbursed based
268 on cost reporting and submits a cost report late and that cost
269 report would have been used to set a lower reimbursement rate
270 for a rate semester, then the provider's rate for that semester
271 shall be retroactively calculated using the new cost report, and
272 full payment at the recalculated rate shall be effected
273 retroactively. Medicare-granted extensions for filing cost
274 reports, if applicable, shall also apply to Medicaid cost
275 reports. Payment for Medicaid compensable services made on
276 behalf of Medicaid-eligible persons is subject to the
277 availability of moneys and any limitations or directions
278 provided for in the General Appropriations Act or chapter 216.
279 Further, nothing in this section shall be construed to prevent
280 or limit the agency from adjusting fees, reimbursement rates,
281 lengths of stay, number of visits, or number of services, or
282 making any other adjustments necessary to comply with the
283 availability of moneys and any limitations or directions
284 provided for in the General Appropriations Act, provided the
285 adjustment is consistent with legislative intent.

286 (2)

287 (b) Subject to any limitations or directions in the General
288 Appropriations Act, the agency shall establish and implement a
289 state Title XIX Long-Term Care Reimbursement Plan for nursing
290 home care in order to provide care and services in conformance

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291 with the applicable state and federal laws, rules, regulations,
292 and quality and safety standards and to ensure that individuals
293 eligible for medical assistance have reasonable geographic
294 access to such care.

295 1. The agency shall amend the long-term care reimbursement
296 plan and cost reporting system to create direct care and
297 indirect care subcomponents of the patient care component of the
298 per diem rate. These two subcomponents together shall equal the
299 patient care component of the per diem rate. Separate prices
300 shall be calculated for each patient care subcomponent,
301 initially based on the September 2016 rate setting cost reports
302 and subsequently based on the most recently audited cost report
303 used during a rebasing year. The direct care subcomponent of the
304 per diem rate for any providers still being reimbursed on a cost
305 basis shall be limited by the cost-based class ceiling, and the
306 indirect care subcomponent may be limited by the lower of the
307 cost-based class ceiling, the target rate class ceiling, or the
308 individual provider target. The ceilings and targets apply only
309 to providers being reimbursed on a cost-based system. Effective
310 October 1, 2018, a prospective payment methodology shall be
311 implemented for rate setting purposes with the following
312 parameters:

313 a. Peer Groups, including:

314 (I) North-SMMC Regions 1-9, less Palm Beach and Okeechobee
315 Counties; and

316 (II) South-SMMC Regions 10-11, plus Palm Beach and
317 Okeechobee Counties.

318 b. Percentage of Median Costs based on the cost reports
319 used for September 2016 rate setting:

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- 320 (I) Direct Care Costs100 percent.
- 321 (II) Indirect Care Costs92 percent.
- 322 (III) Operating Costs86 percent.
- 323 c. Floors:
- 324 (I) Direct Care Component95 percent.
- 325 (II) Indirect Care Component92.5 percent.
- 326 (III) Operating ComponentNone.
- 327 d. Pass-through PaymentsReal Estate and
- 328Personal Property
- 329Taxes and Property Insurance.
- 330 e. Quality Incentive Program Payment
- 331 Pool.....10 percent of September
- 3322016 non-property related
- 333payments of included facilities.
- 334 f. Quality Score Threshold to Quality for Quality Incentive
- 335 Payment.....20th
- 336percentile of included facilities.
- 337 g. Fair Rental Value System Payment Parameters:
- 338 (I) Building Value per Square Foot based on 2018 RS Means.
- 339 (II) Land Valuation.....10 percent of Gross Building value.
- 340 (III) Facility Square FootageActual Square Footage.
- 341 (IV) Movable Equipment Allowance\$8,000 per bed.
- 342 (V) Obsolescence Factor1.5 percent.
- 343 (VI) Fair Rental Rate of Return8 percent.
- 344 (VII) Minimum Occupancy90 percent.
- 345 (VIII) Maximum Facility Age40 years.
- 346 (IX) Minimum Square Footage per Bed350.
- 347 (X) Maximum Square Footage for Bed500.
- 348 (XI) Minimum Cost of a renovation/replacements \$500 per bed.

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349 h. Ventilator Supplemental payment of \$200 per Medicaid day
350 of 40,000 ventilator Medicaid days per fiscal year.

351 2. The direct care subcomponent shall include salaries and
352 benefits of direct care staff providing nursing services
353 including registered nurses, licensed practical nurses, and
354 certified nursing assistants who deliver care directly to
355 residents in the nursing home facility, allowable therapy costs,
356 and dietary costs. This excludes nursing administration, staff
357 development, the staffing coordinator, and the administrative
358 portion of the minimum data set and care plan coordinators. The
359 direct care subcomponent also includes medically necessary
360 dental care, vision care, hearing care, and podiatric care.

361 3. All other patient care costs shall be included in the
362 indirect care cost subcomponent of the patient care per diem
363 rate, including complex medical equipment, medical supplies, and
364 other allowable ancillary costs. Costs may not be allocated
365 directly or indirectly to the direct care subcomponent from a
366 home office or management company.

367 4. On July 1 of each year, the agency shall report to the
368 Legislature direct and indirect care costs, including average
369 direct and indirect care costs per resident per facility and
370 direct care and indirect care salaries and benefits per category
371 of staff member per facility.

372 5. Every fourth year, the agency shall rebase nursing home
373 prospective payment rates to reflect changes in cost based on
374 the most recently audited cost report for each participating
375 provider.

376 6. A direct care supplemental payment may be made to
377 providers whose direct care hours per patient day are above the

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378 80th percentile and who provide Medicaid services to a larger
379 percentage of Medicaid patients than the state average.

380 7. Pediatric, Florida Department of Veterans Affairs, and
381 government-owned facilities are exempt from the pricing model
382 established in this subsection and shall remain on a cost-based
383 prospective payment system. Effective October 1, 2018, the
384 agency shall set rates for all facilities remaining on a cost-
385 based prospective payment system using each facility's most
386 recently audited cost report, eliminating retroactive
387 settlements.

388 8. By October 1, 2025, and each year thereafter, the agency
389 shall submit to the Governor, the President of the Senate, and
390 the Speaker of the House of Representatives a report on each
391 Quality Incentive Program payment made pursuant to sub-
392 subparagraph 1.e. The report must, at a minimum, include all of
393 the following information:

394 a. The name of each facility that received a Quality
395 Incentive Program payment and the dollar amount of such payment
396 each facility received.

397 b. The total number of quality incentive metric points
398 awarded by the agency to each facility and the number of points
399 awarded by the agency for each individual quality metric
400 measured.

401 c. An examination of any trends in the improvement of the
402 quality of care provided to nursing home residents which may be
403 attributable to incentive payments received under the Quality
404 Incentive Program. The agency shall include examination of
405 trends both for the program as a whole as well as for each
406 individual quality metric used by the agency to award program

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407 payments.

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409 It is the intent of the Legislature that the reimbursement plan
410 achieve the goal of providing access to health care for nursing
411 home residents who require large amounts of care while
412 encouraging diversion services as an alternative to nursing home
413 care for residents who can be served within the community. The
414 agency shall base the establishment of any maximum rate of
415 payment, whether overall or component, on the available moneys
416 as provided for in the General Appropriations Act. The agency
417 may base the maximum rate of payment on the results of
418 scientifically valid analysis and conclusions derived from
419 objective statistical data pertinent to the particular maximum
420 rate of payment. The agency shall base the rates of payments in
421 accordance with the minimum wage requirements as provided in the
422 General Appropriations Act.

423 Section 7. This act shall take effect July 1, 2025.