

By the Committee on Health Policy; and Senator Burton

588-02134-25

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A bill to be entitled

An act relating to the quality of care in nursing homes; reviving, reenacting, and amending s. 400.0225, F.S., relating to consumer satisfaction surveys; requiring the Agency for Health Care Administration to develop user-friendly consumer satisfaction surveys for nursing home facilities; specifying requirements for the surveys; authorizing family members, guardians, and other resident designees to assist the resident in completing the survey; prohibiting employees and volunteers of the facility or of a corporation or business entity with an ownership interest in the facility from attempting to influence a resident's responses to the survey; requiring the agency to specify certain protocols for administration of the survey; requiring the agency to publish on its website aggregated survey data in a manner that allows for comparison between nursing home facilities; amending s. 400.141, F.S.; requiring medical directors of nursing home facilities to obtain, or to be in the process of obtaining, certain qualifications by a specified date; requiring the agency to include such medical director's name on each nursing home facility's online provider profile; requiring nursing home facilities to conduct biennial patient safety culture surveys; specifying requirements for administration of such surveys; requiring nursing home facilities to submit the results of such surveys biennially to the agency in a format specified by

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agency rule; authorizing nursing home facilities to develop an internal action plan between surveys to identify measures for improvement of the survey and submit such plan to the agency; amending s. 400.191, F.S.; requiring the agency to include the results from specified consumer satisfaction surveys as part of the Nursing Home Guide on its website; amending s. 408.051, F.S.; requiring nursing home facilities that maintain certain electronic health records to make available certain data to the agency's Florida Health Information Exchange program for a specified purpose; authorizing the agency to adopt rules; amending s. 408.061, F.S.; requiring the agency to impose administrative fines against nursing homes and home offices of nursing homes for failing to comply with certain reporting requirements; defining the term "violation"; providing construction; requiring the agency to adopt rules; providing requirements for such rules; amending s. 408.08, F.S.; exempting health care facilities from imposition of administrative fines if they have otherwise been fined for the same violation pursuant to other provisions; amending s. 409.908, F.S.; requiring the agency to submit an annual report to the Governor and the Legislature on payments made under the Quality Incentive Program; specifying requirements for the report; providing an effective date.

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

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59  
60       Section 1. Notwithstanding the repeal of section 400.0225,  
61 Florida Statutes, in section 14 of chapter 2001-377, Laws of  
62 Florida, that section is revived, reenacted, and amended to  
63 read:

64       400.0225 Consumer satisfaction surveys.—

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

75       (2) Family members, guardians, or other resident designees  
76 may assist a resident in completing the consumer satisfaction  
77 survey.

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

83       (4) The agency shall specify the protocols for conducting  
84 the consumer satisfaction surveys, ensuring survey validity,  
85 reporting survey results, and protecting the identity of  
86 individual respondents. The agency shall make aggregated survey  
87 data available to consumers on the agency's website pursuant to

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88 s. 400.191(2)(a)15. in a manner that allows for comparison  
89 between nursing home facilities, ~~or its contractor, in~~  
90 ~~consultation with the nursing home industry and consumer~~  
91 ~~representatives, shall develop an easy-to-use consumer~~  
92 ~~satisfaction survey, shall ensure that every nursing facility~~  
93 ~~licensed pursuant to this part participates in assessing~~  
94 ~~consumer satisfaction, and shall establish procedures to ensure~~  
95 ~~that, at least annually, a representative sample of residents of~~  
96 ~~each facility is selected to participate in the survey. The~~  
97 ~~sample shall be of sufficient size to allow comparisons between~~  
98 ~~and among facilities. Family members, guardians, or other~~  
99 ~~resident designees may assist the resident in completing the~~  
100 ~~survey. Employees and volunteers of the nursing facility or of a~~  
101 ~~corporation or business entity with an ownership interest in the~~  
102 ~~facility are prohibited from assisting a resident with or~~  
103 ~~attempting to influence a resident's responses to the consumer~~  
104 ~~satisfaction survey. The agency, or its contractor, shall survey~~  
105 ~~family members, guardians, or other resident designees. The~~  
106 ~~agency, or its contractor, shall specify the protocol for~~  
107 ~~conducting and reporting the consumer satisfaction surveys.~~  
108 ~~Reports of consumer satisfaction surveys shall protect the~~  
109 ~~identity of individual respondents. The agency shall contract~~  
110 ~~for consumer satisfaction surveys and report the results of~~  
111 ~~those surveys in the consumer information materials prepared and~~  
112 ~~distributed by the agency.~~

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

115 Section 2. Paragraph (b) of subsection (1) of section  
116 400.141, Florida Statutes, is amended, and paragraph (x) is

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added to that subsection, to read:

400.141 Administration and management of nursing home facilities.—

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

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

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

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

400.191 Availability, distribution, and posting of reports and records.—

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

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

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

2. A list by name and address of all nursing home facilities in this state, including any prior name by which a

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175 facility was known during the previous 24-month period.

176 3. Whether such nursing home facilities are proprietary or  
177 nonproprietary.

178 4. The current owner of the facility's license and the year  
179 that that entity became the owner of the license.

180 5. The name of the owner or owners of each facility and  
181 whether the facility is affiliated with a company or other  
182 organization owning or managing more than one nursing facility  
183 in this state.

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

186 7. The number of private and semiprivate rooms in each  
187 facility.

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

189 9. The languages spoken by the administrator and staff of  
190 each facility.

191 10. Whether or not each facility accepts Medicare or  
192 Medicaid recipients or insurance, health maintenance  
193 organization, United States Department of Veterans Affairs,  
194 CHAMPUS program, or workers' compensation coverage.

195 11. Recreational and other programs available at each  
196 facility.

197 12. Special care units or programs offered at each  
198 facility.

199 13. Whether the facility is a part of a retirement  
200 community that offers other services pursuant to part III of  
201 this chapter or part I or part III of chapter 429.

202 14. Survey and deficiency information, including all  
203 federal and state recertification, licensure, revisit, and

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complaint survey information, for each facility. For noncertified nursing homes, state survey and deficiency information, including licensure, revisit, and complaint survey information, shall be provided.

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

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

408.051 Florida Electronic Health Records Exchange Act.—

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

Section 5. Present subsections (7) through (15) of section 408.061, Florida Statutes, are redesignated as subsections (8) through (16), respectively, and a new subsection (7) is added to that section, to read:

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

(7)(a) Beginning January 1, 2026, the agency shall impose an administrative fine of \$10,000 per violation against a nursing home or home office that fails to comply with subsection (5) or subsection (6), as applicable. For purposes of this



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paragraph, the term "violation" means failing to file the financial report required by subsection (5) or subsection (6), as applicable, on or before the report's due date. 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.

(b) The agency shall adopt rules to implement this subsection. The rules must include provisions for a nursing home or home office to present factors in mitigation of the imposition of the fine's full dollar amount. The agency may determine not to impose the fine's full dollar amount upon a showing that the full fine is inappropriate under the circumstances.

Section 6. Subsection (2) of section 408.08, Florida Statutes, is amended to read:

408.08 Inspections and audits; violations; penalties; fines; enforcement.—

(2) Unless otherwise fined pursuant to s. 408.061(7), any health care facility that refuses to file a report, fails to timely file a report, files a false report, or files an incomplete report and upon notification fails to timely file a complete report required under s. 408.061; that violates this section, s. 408.061, or s. 408.20, or rule adopted thereunder; or that fails to provide documents or records requested by the agency under this chapter shall be punished by a fine not exceeding \$1,000 per day for each day in violation, to be imposed and collected by the agency. Pursuant to rules adopted by the agency, the agency may, upon a showing of good cause, grant a one-time extension of any deadline for a health care

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facility to timely file a report as required by this section, s. 408.061, or s. 408.20.

Section 7. Paragraph (b) of subsection (2) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid-eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the

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availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(2)

(b) Subject to any limitations or directions in the General Appropriations Act, the agency shall establish and implement a state Title XIX Long-Term Care Reimbursement Plan for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such care.

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

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parameters:

a. Peer Groups, including:

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

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

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

(I) Direct Care Costs .....100 percent.

(II) Indirect Care Costs .....92 percent.

(III) Operating Costs .....86 percent.

c. Floors:

(I) Direct Care Component .....95 percent.

(II) Indirect Care Component .....92.5 percent.

(III) Operating Component .....None.

d. Pass-through Payments .....Real Estate and  
.....Personal Property  
.....Taxes and Property Insurance.

e. Quality Incentive Program Payment

Pool.....10 percent of September  
.....2016 non-property related  
.....payments of included facilities.

f. Quality Score Threshold to Quality for Quality Incentive  
Payment.....20th  
.....percentile of included facilities.

g. Fair Rental Value System Payment Parameters:

(I) Building Value per Square Foot based on 2018 RS Means.

(II) Land Valuation .....10 percent of Gross Building value.

(III) Facility Square Footage .....Actual Square Footage.

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(IV) Movable Equipment Allowance .....\$8,000 per bed.

(V) Obsolescence Factor .....1.5 percent.

(VI) Fair Rental Rate of Return .....8 percent.

(VII) Minimum Occupancy .....90 percent.

(VIII) Maximum Facility Age .....40 years.

(IX) Minimum Square Footage per Bed .....350.

(X) Maximum Square Footage for Bed .....500.

(XI) Minimum Cost of a renovation/replacements \$500 per bed.

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

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

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

4. On July 1 of each year, the agency shall report to the Legislature direct and indirect care costs, including average direct and indirect care costs per resident per facility and

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direct care and indirect care salaries and benefits per category of staff member per facility.

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

6. A direct care supplemental payment may be made to providers whose direct care hours per patient day are above the 80th percentile and who provide Medicaid services to a larger percentage of Medicaid patients than the state average.

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

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

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

b. The total number of quality incentive metric points awarded by the agency to each facility and the number of points

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407 awarded by the agency for each individual quality metric  
408 measured.

409 c. An examination of any trends in the improvement of the  
410 quality of care provided to nursing home residents which may be  
411 attributable to incentive payments received under the Quality  
412 Incentive Program. The agency shall include examination of  
413 trends both for the program as a whole as well as for each  
414 individual quality metric used by the agency to award program  
415 payments.

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

431 Section 8. This act shall take effect July 1, 2025.