LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

ASSEMBLY, No. 4478

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JANUARY 11, 2022

SUMMARY

Synopsis:	Establishes additional requirements for DOH to assess sanctions and impose penalties on nursing homes; revises reporting requirements for nursing homes.
Type of Impact:	Annual increase in State expenditures and revenues; annual increase in county expenditures.
Agencies Affected:	Department of Health, Department of Military and Veterans' Affairs, County-operated nursing homes.

Office of Legislative Services Estimate

Fiscal Impact	Annual
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate
County Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that annual State costs would increase by an indeterminate amount for the Department of Health (DOH) to implement additional data reporting, regulatory, and oversight requirements pursuant to this bill.

- The penalties levied on nursing homes with recurring regulatory violations.

- will increase State revenues, but the OLS cannot estimate the magnitude of the revenue increase because the bill does not establish either the amount of the penalty or the schedule on which the penalty for noncompliant nursing homes will be levied.

- The three nursing homes operated by the Department of Military and Veterans' Affairs (DMAVA) and nine county-operated nursing homes will incur indeterminate cost increases to comply with the increased operational and data reporting requirements imposed pursuant to this bill. To the extent that any of the DMAVA- or county-operated nursing homes are assessed penalties under the bill, the State and certain counties would face additional costs to effect the

administrative and operational changes necessary to bring these nursing homes into compliance with State and federal requirements.

BILL DESCRIPTION

This bill establishes additional requirements for DOH to assess sanctions and impose penalties on nursing homes for repeat violations of State and federal requirements for nursing home administration and operations. The bill also imposes various reporting requirements on nursing homes and the department.

Under the bill, a nursing home cited for the same or a substantially similar F-level deficiency or higher, as outlined in federal Centers for Medicare and Medicaid Services (CMS) guidelines, in a given three-year period is to be subject to a penalty that is more severe than the penalty imposed for the previous violation. The department may impose additional penalties, sanctions, or corrective measures pursuant to regulation when such deficiencies or violations involve noncompliance with infection control requirements or result in severe adverse health consequences for a resident or staff member of the nursing home.

To facilitate enforcement of State and federal rules and requirements for nursing home operations, the DOH is directed to request and consolidate nursing home data that are already reported to other State and federal authorities, in order to identify those facilities with consistent performance issues, ongoing compliance issues, or high numbers of substantiated complaints. The DOH is to make the consolidated data available, upon request, to other State and federal entities with jurisdiction over New Jersey nursing homes.

This bill additionally requires the DOH to review State reporting requirements for nursing homes, begin standardizing and consolidating these reporting requirements in order to reduce the administrative demands of compliance, develop updated standardized data reporting requirements, and improve the utility of the reported data and the ability to share these data across systems, including, as appropriate, systems maintained by other State departments and agencies, county and local agencies, and federal authorities.

The DOH is directed to develop such additional data reporting requirements for nursing homes as are necessary to improve transparency and facilitate the department’s ability to oversee and regulate nursing home operations, including information related to occupancy, operating expenses and other appropriate financial metrics, and utilization and staffing data. In developing additional reporting requirements, the department is to solicit feedback from nursing homes, advocacy groups for nursing home residents and their families, the New Jersey Long-Term Care Ombudsman, and Medicaid managed care organizations concerning proposed data metrics, methods of maximizing the efficiency of data collection and specification, minimizing duplicative data reporting, and identifying ways to consolidate, automate, or streamline reported data.

Furthermore, the DOH is to develop and publish on its website, and update at least quarterly, a data dashboard that provides a separate page or listing for each nursing home licensed in the State with links to the sites where information and data relevant to the nursing home may be found, as well as a description of the data and information that is accessible through each link. The data dashboard is to be searchable by nursing home.

The bill additionally directs the DOH to request from the National Healthcare Safety Network, on a quarterly basis, data concerning the number of infections reported to the network by New Jersey nursing homes; make the data available on the department’s website; and update the data at least quarterly using the most current data obtained from the National Healthcare Safety Network. The department shall additionally provide on its website data concerning the Statewide and national averages for each type of reported infection in nursing homes.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill will increase annual State costs by an indeterminate amount due to requirements that the DOH impose penalties and sanctions on nursing homes for repeated noncompliance or multiple violations, and develop new, streamlined data collection, reporting, and sharing systems. The penalties levied on nursing homes with recurring regulatory violations will increase State revenues, but the OLS cannot estimate the magnitude of the revenue increase because the bill does not establish either the amount of the penalties or the schedule on which the penalties for noncompliant nursing homes will be levied.

Moreover, the reporting requirements and penalties established under this bill will apply to three nursing homes operated by the Department of Military and Veterans' Affairs (DMAVA) and nine nursing homes operated by Bergen (3), Middlesex (2), Atlantic (1), Cape May (1), Gloucester (1) and Passaic (1) counties. These facilities will likely incur additional expenses to comply with the data reporting requirements established in bill, and may potentially incur costs from penalties levied against troubled nursing homes.

This bill also provides that a nursing home cited for the same or a substantially similar F-level deficiency or higher, as outlined in federal CMS guidelines, in a given three-year period is to be subject to a penalty that is more severe than the penalty imposed for the previous violation. The OLS notes that implementation of this requirement will increase State costs due to the administrative and personnel expenses required to oversee facility compliance with enhanced penalties, and to ensure that facility operations improve in response to these corrective measures.

Penalties levied on troubled nursing homes will increase State revenues, but the OLS cannot estimate the magnitude of the increase because the bill does not establish either the amount of the penalties or the schedule on which such penalties will be imposed. Depending upon the frequency of penalties levied by the DOH, as well as the size of these monetary penalties, the revenue stream from these fines may partially offset the cost of the sanctions provision contained in this bill.

The DOH will also incur additional costs to develop new, streamlined data collection, reporting, and sharing procedures under this bill. Not only will the DOH require additional staff hours to manage the collection, standardization, analysis and reporting of a substantial influx of new nursing home data, but the department will also require a significant investment in health information technology to process the data, share these data with other State and federal authorities, assess nursing home health information technology needs to support facilities' ability to report and utilize the required data, and establish a publicly-facing nursing home data dashboard on the department's website, which is to be updated at least on a quarterly basis.

The DOH is permitted, however, to solicit feedback from nursing homes, advocacy groups for nursing home residents and their families, the New Jersey Long-Term Care Ombudsman, and the State's Medicaid managed care organizations in the development of additional data reporting requirements for nursing homes to improve transparency and expedite the department's ability to improve oversight and regulation of nursing homes. To the extent that the DOH can consult with, and access data collection and reporting tools already developed by managed care organizations, State costs would be reduced.

Finally, DMAVA- and county-operated nursing homes will incur additional expenses to comply with increased operational and data reporting requirements. These facilities may also face

significant expenses in order to upgrade their health information technology infrastructure in order to meet data collection and reporting requirements established under the bill. To the extent that any DMAVA- or county-operated nursing homes are assessed escalating fines or enhanced penalties or sanctions pursuant to the bill, these facilities may incur substantially higher costs to comply with State and federal requirements.

Section:	*Human Services*
Analyst:	*Sarah Schmidt* *Senior Research Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).