ASSEMBLY AGING AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4478

STATE OF NEW JERSEY

DATED: OCTOBER 8, 2020

The Assembly Aging and Senior Services Committee reports favorably Assembly Bill No. 4478.

This bill requires the Department of Health (DOH) to establish, no later than 60 days after the bill's effective date, a scaling system of actions and penalties for long-term care facilities that are in violation of State and federal requirements for long-term care facility operation. The bill also imposes various reporting requirements on long-term care facilities and establishes a Long-Term Care Facility Advisory Council in the DOH.

The system of scaling actions and penalties that is to be developed by the DOH under the bill is to provide for: 1) the undertaking of mandatory licensure surveys of long-term care facilities having three or more violations in a single year, with at least one survey to be completed every two years for the succeeding four years unless more frequent surveys are warranted; and 2) the assessment of enhanced sanctions and other penalties for continued or repeated noncompliance with DOH regulations, particularly when the facility is cited multiple times for the same violation or when violations involve noncompliance with infection control requirements. The enhanced sanctions and penalties are to include a series of escalating fines for severe violations or for multiple violations by the same facility, as well as a series of escalating licensure actions when repeated or multiple violations are committed by the same facility. These licensure actions may include suspending, terminating, or revoking the facility's license, restricting new admissions to the facility, requiring the transfer of residents to another facility, or, in the case of a nursing home, petitioning a court of competent jurisdiction for the appointment of a receiver.

No later than 60 days after the effective date of the bill, the DOH will be required to evaluate staffing levels and competency by resident acuity and complexity and establish a system to impose greater responsibility on each long-term care facility's medical director for quality outcomes at the facility, including imposing specific penalties or sanctions against the medical director for repeated failure to produce improvements in quality outcomes at the facility.

To facilitate enforcement of the rules and requirements for long-term care facility operations, no later than 60 days after the effective date of the bill, the DOH is to request and consolidate data concerning long-term care facilities reported to other State and federal authorities

in order to identify long-term care facilities with consistent or repeated 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 having jurisdiction over long-term care facilities in New Jersey.

The bill additionally requires the DOH, within 60 days after the effective date of the bill, to undertake a review of reporting requirements for long-term care facilities and take steps to standardize and consolidate the reporting requirements for the purpose of reducing the administrative demand on the facilities of complying with reporting requirements, developing updated standardized data reporting requirements, and improving the utility of the reported data and the ability to share the data across systems, including systems maintained by other State departments and agencies, county and local agencies, and federal authorities. The DOH's review is to include:

(1) identifying and eliminating duplicative reporting;

(2) establishing standardized formats, requirements, protocols, and systems for data reporting, which may include requiring facilities to report data in machine-readable formats;

(3) establishing a centralized, cross-agency workgroup to monitor long-term care facility reporting;

(4) assessing State health information technology needs to support technology-enabled and data-driven regulatory oversight across State departments and agencies, anticipate potential uses for the enhanced technologies and systems, enable systems to readily accept and analyze additional data metrics, and identify opportunities to centralize and modernize State health data infrastructure, processes, and analytic capabilities;

(5) assessing long-term care facility health information technology needs to support population health management, interoperability, and modernized reporting requirements; and

(6) identifying and applying for federal funding to support health information technology infrastructure development.

The bill requires all long-term care facilities to file with the DOH monthly and quarterly unaudited financial information, quarterly unaudited financial statements, annual audited financial statements, and such other financial information as the department may request. The information and statements will be posted on the department's Internet website and updated as they become available.

The bill additionally requires all long-term care facilities to annually report to the DOH the number and severity of facility-acquired infections occurring among residents of the long-term care facility in the preceding year involving the following facility-acquired infections: Methicillin-resistant Staphylococcus aureus (MRSA); Clostrum difficile (C.Diff); Surgical Site Infections After Colon Surgery (SSi-Colon); Central Line-Associated Bloodstream Infections (CLABSI); Catheter-Associated Urinary Tract Infections (CAUTI);

and any other facility-acquired infection for which the DOH requires annual reporting by regulation.

The DOH will be required to develop additional data reporting requirements for long-term care facilities as are necessary to improve market transparency and facilitate the department's ability to oversee and regulate operations in long-term care facilities, including, but not limited to, data 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 long-term care facilities and managed care plans concerning proposed new 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.

The DOH will also be required to establish, no later than 30 days after the effective date of the bill, centralized State protocols for long-term care facility communications to reduce duplicative outreach and enhance information sharing capabilities.

Long-term care facilities will be required to post on their Internet websites any policies or plans required to be in place at the facility pursuant to State law and have a dedicated staff person available at all times to respond to questions from the public concerning the policies and plans required to be posted on the facility's Internet website.

The DOH will be required to analyze data reported by long-term care facilities for oversight purposes and make the results of its analysis public whenever possible. At a minimum, the DOH will be required to develop, make available on its Internet website, and update at least monthly, a data dashboard that includes the data reported by each long-term care facility licensed in the State. The data dashboard will include: an overall performance score; details concerning the number and status of complaints involving the facility; the facility's star rating issued by the federal Centers for Medicare and Medicaid Services (CMS); the dates and results of inspections of the facility by the DOH, the Department of Human Services, and CMS, including links to any deficiencies or violations for which the facility was cited and any corrective action plans that are in place at the facility; a breakdown of any costs and financial data reported by the facility; general staffing levels at the facility and rates of compliance with mandatory staffing ratios; the frequency with which antipsychotic medication was administered to facility residents; information concerning pressure ulcers and facility-acquired infections; and any other data required by the DOH. The DOH will additionally be required to prepare and publish, on its Internet website, annual reports on New Jersey's long-term care system of care.

The bill establishes in the DOH the "Long-Term Care Facility Advisory Council." The purpose of the council will be to advise the DOH on matters related to the oversight of long-term care facilities

and on issues concerning long-term care facility residents and their families, as well as to foster communication with the public regarding long-term care facilities. The responsibilities of the advisory council will include:

(1) analyzing and reviewing the results of long-term care facility inspections conducted by the DOH, including the penalties assessed against long-term care facilities and the department's adherence to federal guidance concerning State inspections of long-term care facilities;

(2) receiving public comment on the results of long-term care facility inspections; and

(3) consulting with the New Jersey Long-Term Care Ombudsman as necessary.

The advisory council will consist of seven members, including: the New Jersey Long-Term Care Ombudsman and the Assistant Commissioner for the Division of Medical Assistance and Health Services in the Department of Human Services, or their designees, who will serve ex officio; one public member, to be appointed by the Governor, who is to be a representative of the long-term care facility industry; and four public members who are advocates for residents of long-term care facilities, with two of the public members to be appointed by the Senate President and two of the public members to be appointed by the Speaker of the General Assembly.

The public members of the advisory council are to be appointed, and the advisory council is to organize, no later than 45 days after the effective date of the bill.

The advisory council will meet on a quarterly basis at times and places as may be designated by the chairperson. All meetings of the advisory council will be open to the public, and agendas, minutes, documents, and testimony from all meeting will be posted on the DOH's Internet website. The advisory council will be required to invite the Attorney General or a representative of the Office of the Attorney General, the State Auditor, the State Comptroller, and a representative of the SOH to be present at each meeting.

The advisory council will be required to prepare and submit biannual reports concerning its analysis of the DOH's oversight and inspections of long-term care facilities along with any recommendations for legislative or administrative action to the Governor and to the Legislature. The advisory council will be authorized to provide additional recommendations to the DOH at any time upon request.