

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 4478

with Senate Floor Amendments
(Proposed by Senator VITALE)

ADOPTED: DECEMBER 2, 2021

These Senate amendments remove from the bill provisions that would have established a special focus survey program for nursing homes with a history of repeat, chronic violations of State or federal requirements for nursing home administration and operations, as well as provisions specifying how escalating fines and adverse licensure actions would be applied to a nursing home. The amendments also remove a provision requiring the Department of Health (DOH) to establish a system to impose greater responsibility on nursing home medical directors for quality outcomes at the nursing home.

The Senate amendments replace these provisions with a requirement that a nursing home that is penalized for a subsequent 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 amendments further provide that the DOH may impose additional penalties, sanctions, and corrective measures when a violation involves noncompliance with infection control requirements or results in severe adverse health consequences for a staff member or resident.

The Senate amendments revise a requirement for nursing homes to report certain facility-acquired infections to the DOH, to instead require that nursing homes: 1) participate in the National Health Care Safety Network's (NHSN) Long-term Care Facility Component; 2) complete the NHSN's long-term care facility annual facility survey; and 3) participate in the NHSN's long-term care facility monthly reporting plan, including the healthcare-associated infection reporting modules for: urinary tract infections, the laboratory-identified event module for *Clostridium difficile* (C.diff) infection and multidrug-resistant organisms, and prevention measures; and the monthly reporting plan for prevention process measures, including hand hygiene, gloves, and gown adherence. The amendments add a new requirement for the DOH to request from the NHSN, on a quarterly basis, information concerning the number of facility-acquired infections reported to the NHSN by New Jersey nursing homes for the purposes of making this information available to the public through the DOH's data dashboard established under the bill. The information is to include details concerning the number and type of each reportable infection occurring in each nursing home, as well as the Statewide and national averages for each type of reported infection.

The Senate amendments make a requirement for the DOH to develop additional data reporting requirements permissive, rather than mandatory, and remove a requirement that the additional data reporting facilitate market transparency; instead, the additional data reporting is to improve transparency in general. The amendments provide that, in developing additional data metrics, the DOH is to solicit feedback from, in addition to representatives of nursing homes and managed care organizations, advocacy groups for nursing home residents and their families and the New Jersey Long-Term Care Ombudsman.

The Senate amendments remove a requirement for the DOH to analyze data reported by nursing homes for oversight purposes and make certain information available to the public, and instead require the DOH to establish a dashboard with links to the sites where certain information and data relevant to nursing homes may be found. The amendments require that the dashboard be searchable by nursing home, include a separate listing for each nursing home, and include a description of the data or information available through a given link.

The Senate amendments revise a requirement for the DOH to provide information concerning nursing home staffing ratios to provide that information concerning noncompliance with mandatory staffing ratios is to be provided only to the extent feasible, and to remove a requirement to provide information concerning the number of shifts during which a nursing home was out of compliance.

The Senate amendments remove a requirement for the DOH to use the data dashboard established under the bill to develop performance improvement plans for nursing homes and to facilitate performance improvements in individual nursing homes.

The Senate amendments remove a section from the bill that would have established a Nursing Home Advisory Council to advise the DOH on matters related to the oversight of nursing homes and issues concerning nursing home residents and their families, as well as to foster communication with the public regarding nursing homes.

The Senate amendments provide the DOH with the authority to promulgate rules and regulations on an expedited basis for the purposes of implementing the bill, which expedited rules and regulations would remain in effect for up to 18 months and may thereafter be readopted, with or without amendments, pursuant to the standard procedures established under the “Administrative Procedure Act.”

The Senate amendments revise the effective date of the bill from 180 days after enactment to the first day of the 10th month after the date of enactment, except that the provision granting the DOH expedited rulemaking authority will take effect immediately upon enactment.