

[Second Reprint]

**ASSEMBLY, No. 4477**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED JULY 30, 2020

**Sponsored by:**

**Assemblyman NICHOLAS CHIARAVALLOTI**

**District 31 (Hudson)**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

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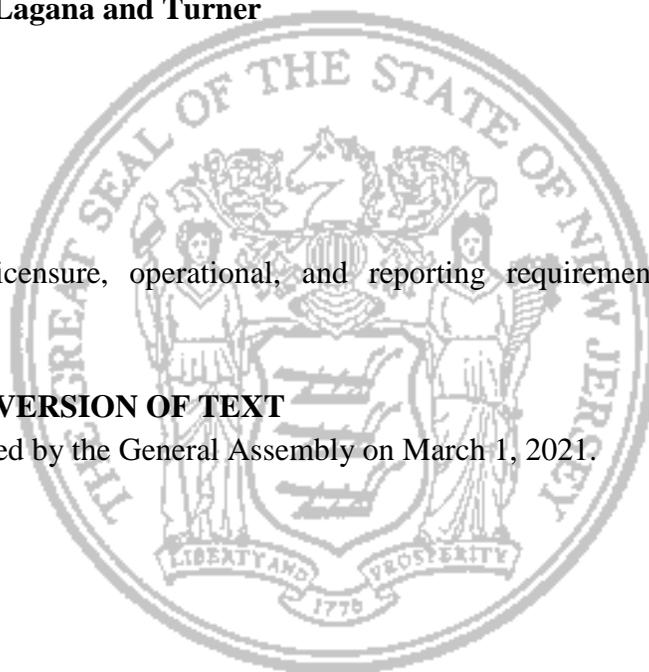
**Assemblyman Benson, Assemblywomen Speight, Vainieri Huttle, McKnight, Assemblymen Caputo, Mejia, Assemblywomen Reynolds-Jackson, Mosquera, B.DeCroce, Jimenez, Lopez, Lampitt, Assemblymen Houghtaling, Johnson, Assemblywoman Jasey, Senators Pou, Diegnan, Greenstein, Lagana and Turner**

**SYNOPSIS**

Revises licensure, operational, and reporting requirements for nursing homes.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on March 1, 2021.



**(Sponsorship Updated As Of: 3/25/2021)**

1 AN ACT concerning <sup>1</sup>**【long-term care facilities】** nursing homes<sup>1</sup> ,  
 2 amending P.L.1987, c.322, and supplementing Title 26 of the  
 3 Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
 6 of New Jersey:

7

8 1. Section 1 of P.L.1987, c.322 (C.26:2H-7.2) is amended to read  
 9 as follows:

10 1. Notwithstanding the provisions of section 7 of P.L.1971, c.136  
 11 (C.26:2H-7) to the contrary, a nursing home which proposes to  
 12 increase the total number of licensed beds contained therein by not  
 13 more than 10 beds or 10% of its licensed bed capacity, whichever is  
 14 less, within a period of five years is exempt from the requirement of  
 15 obtaining a certificate of need if the nursing home is in compliance  
 16 with all State regulations governing its operations. No <sup>1</sup>**【transfer of**  
 17 a】<sup>1</sup> licensed bed that is added by a nursing home in accordance with  
 18 the requirements of this section <sup>1</sup>**【to another nursing home】**<sup>1</sup> , and no  
 19 <sup>1</sup>**【transfer of a】**<sup>1</sup> licensed bed that is part of an unimplemented  
 20 certificate of need <sup>1</sup> , may be sold or transferred<sup>1</sup> to any other nursing  
 21 home <sup>1</sup>**【**, shall be authorized except upon application for and receipt of  
 22 a certificate of need as provided by P.L.1971, c.136 (C.26:2H-1 et  
 23 seq.)】 <sup>2</sup>except upon application for and receipt of a certificate of need  
 24 as provided by P.L.1971, c.136 (C.26:2H-1 et seq.)<sup>2</sup> . A nursing  
 25 home that has removed beds from its license within the preceding five  
 26 years shall not be eligible to increase its licensed bed capacity under  
 27 the provisions of this section<sup>1</sup> .

28 (cf: P.L.1987, c.322, s.1)

29

30 2. (New section) a. <sup>1</sup>**【The transfer of ownership of a long-term**  
 31 **care facility shall not require a certificate of need except when the**  
 32 **proposed owner does not satisfy the Department of Health's track**  
 33 **record review, including a review of the dashboard data for the facility**  
 34 **published pursuant to subsection f. of section 3 of P.L. ,**  
 35 **c. (C. ) (pending before the Legislature as Senate Bill No. 2759**  
 36 **or Assembly Bill No. 4478 of 2020/2021) for the preceding three**  
 37 **years, if available.**

38 b. <sup>1</sup>**【** Prior to transferring ownership of a <sup>1</sup>**【long-term care facility】**  
 39 nursing home<sup>1</sup> , the prospective new owner shall submit an application  
 40 to the <sup>1</sup>**【Long Term Care Licensing and Certification Program】**  
 41 Department of Health<sup>1</sup> <sup>2</sup>that meets the requirements of section 3 of this  
 42 act<sup>2</sup> . The application shall include the following items:

43 (1) the transfer of ownership fee established by the department;

**EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Assembly AAP committee amendments adopted October 26, 2020.

<sup>2</sup>Assembly floor amendments adopted March 1, 2021.

1 (2) a cover letter stating the applicant's intent to purchase the  
2 <sup>1</sup>[[long-term care facility] nursing home<sup>1</sup> , and identification of the  
3 <sup>1</sup>[[facility] nursing home<sup>1</sup> by name, address, county, and number and  
4 type of licensed beds;

5 (3) a description of the proposed transaction, including:

6 (a) identification of the current owners of the <sup>1</sup>[[long-term care  
7 facility] nursing home<sup>1</sup> ;

8 (b) identification of 100 percent of the proposed new owners,  
9 including the names and addresses of all principals <sup>1</sup>and interested  
10 parties<sup>1</sup> ; and

11 (c) if applicable, a copy of an organizational chart, including  
12 parent corporations and wholly-owned subsidiaries; <sup>2</sup>and<sup>2</sup>

13 (4) a copy of the agreement of sale and, if applicable, a copy of  
14 any lease and management agreements <sup>2</sup>[[;];

15 (5) a projection of profits and losses for the next three years and a  
16 capital budget projection for the next three years; and

17 (6) disclosure of any licensed health care facilities owned,  
18 operated, or managed by the proposed owners and principals in any  
19 state or territory of the United States or in the District of Columbia in  
20 the preceding <sup>1</sup>[[five] three<sup>1</sup> years, along with <sup>1</sup>[[audited] owner-  
21 certified<sup>1</sup> financial statements for each such facility for the last three  
22 years during which the facility was owned, operated, or managed by  
23 <sup>1</sup>[[the third party entity] owner or principal<sup>1</sup> . If the owners or  
24 principals own, operate, or manage facilities located outside New  
25 Jersey, the application shall include <sup>1</sup>[[letters from the regulatory  
26 agency in each jurisdiction in which a facility is owned, operated, or  
27 managed, verifying that the facility was operated in substantial  
28 compliance with the laws of that jurisdiction throughout the preceding  
29 five year period or for such time during that period as the third party  
30 entity owned, operated, or managed the facility, and that the facility  
31 has had no] disclosures by the applicant as to any<sup>1</sup> enforcement  
32 actions imposed during that period of time<sup>1</sup> against any facility owned,  
33 operated, or managed by the applicant in any jurisdiction<sup>2</sup> .

34 The applicant may additionally submit a summary of the  
35 application materials that includes such details concerning the  
36 application as are required by the department, but that omits any  
37 proprietary information in the contracts for the sale or management of  
38 the nursing home, and any home addresses, social security numbers, or  
39 other personal information of any proposed owner, principal, or  
40 interested party. A summary prepared by the applicant may only be  
41 used for the purposes of posting information concerning the  
42 application on the department's Internet website pursuant to paragraph  
43 (1) of subsection<sup>2</sup> [e.] d.<sup>2</sup> of this section.

44 b. Information submitted pursuant to subsection a. of this section  
45 <sup>2</sup>or subsection a. of section 3 of this act<sup>2</sup> by an applicant for transfer of

1 ownership of a nursing home shall not be used in any adverse licensure  
2 action or disciplinary action against the applicant<sup>1</sup> .

3 c. Approval of a transfer of ownership of a <sup>1</sup>long-term care  
4 facility nursing home<sup>1</sup> is contingent upon:

5 (1) a review of the applicant's <sup>1</sup>track record by the department,  
6 including a review of the dashboard data published pursuant to  
7 subsection f. of section 3 of P.L. , c. (C. ) (pending before the  
8 Legislature as Senate Bill No. 2759 or Assembly Bill No. 4478 of  
9 2020/2021) for history of disciplinary actions assessed in connection  
10 with<sup>1</sup> any other facility owned, operated, or managed by the proposed  
11 owners and principals in New Jersey, and a determination based on  
12 that review that approval of the transfer of ownership will not present a  
13 material risk to the health, safety, or welfare of residents of the  
14 <sup>1</sup>facility nursing home<sup>1</sup> that is the subject of the transfer application;  
15 <sup>2</sup>and<sup>2</sup>

16 (2) payment of all outstanding <sup>1</sup>and issued<sup>1</sup> Medicaid audit claims  
17 and State penalties issued by the department against the current owner,  
18 <sup>1</sup>or unless such claims remain under appeal, in which case, if the  
19 claim remains under appeal, the applicant shall submit<sup>1</sup> written  
20 verification <sup>1</sup>by the applicant<sup>1</sup> that <sup>1</sup>either<sup>1</sup> the applicant <sup>1</sup>or the  
21 current owners of the nursing home<sup>1</sup> will assume responsibility for  
22 payment of such audit <sup>1</sup>findings recoveries<sup>1</sup> and State penalties <sup>1</sup>at  
23 the conclusion of the appeal<sup>1</sup> <sup>2</sup>;<sup>2</sup> and

24 (3) <sup>1</sup>consistent with the requirements of subsection d. of this  
25 section,<sup>1</sup> a criminal history background check of each proposed owner  
26 and principal and a determination that no proposed owner or principal  
27 has a prior conviction involving fraud or any other criminal offense of  
28 a financial nature, or a prior conviction that may bear on the health and  
29 safety of residents of a long-term care facility, including, but not  
30 limited to, a prior conviction involving abuse, neglect, or exploitation  
31 of any person]<sup>2</sup> .

32 d. <sup>2</sup>For the purposes of paragraph (3) of subsection c. of this  
33 section, the department is authorized to exchange fingerprint data with  
34 and receive criminal history record background information from the  
35 Division of State Police and the Federal Bureau of Investigation  
36 consistent with the provisions of applicable federal and State laws,  
37 rules, and regulations. Upon receipt of such notification, the  
38 department shall make a determination as to whether transferring all or  
39 part of the ownership of a<sup>1</sup>long-term care facility nursing home<sup>1</sup> to  
40 the applicant would constitute a material risk to the health, safety, or  
41 welfare of residents of the <sup>1</sup>facility nursing home<sup>1</sup>. An applicant for  
42 a transfer of ownership of a <sup>1</sup>long-term care facility nursing home<sup>1</sup>  
43 who is required to complete a criminal history record background  
44 check pursuant to this section shall submit to being fingerprinted in  
45 accordance with applicable State and federal laws, rules, and  
46 regulations. An applicant shall bear the cost for the criminal history

1 record background check, including all costs of administering and  
2 processing the check. 1The Division of State Police shall promptly  
3 notify the department in the event that an individual who was the  
4 subject of a criminal history record background check conducted  
5 pursuant to paragraph (3) of subsection c. of this section is convicted  
6 of a crime or offense in this State after the date the background check  
7 was performed. Upon receipt of that notification, the department shall  
8 make a determination regarding the continued eligibility for the  
9 individual to be an owner or principal of a nursing home.<sup>1</sup>

10 e.]<sup>2</sup> **1[Transfer]** (1) A copy of each transfer<sup>1</sup> of ownership  
11 application **1[materials]** , or a summary of the application prepared by  
12 the applicant that includes the names of the proposed owners,  
13 principals, and interested parties,<sup>1</sup> shall <sup>1</sup>be<sup>1</sup> published on the  
14 department's Internet website **1[and]** no later than 30 days after the  
15 date the department receives the application; provided that the  
16 department shall redact the materials to the extent necessary to ensure  
17 that no proprietary information in the contracts for the sale or  
18 management of the nursing home, and no home addresses, social  
19 security numbers, or other personal information of any proposed  
20 owner, principal, or interested party, is included in the materials  
21 published on the department's Internet website.

22 (2) Each application for the transfer of ownership of a nursing  
23 home<sup>1</sup> shall be subject to <sup>1</sup>a<sup>1</sup> public comment **1[for a]** period **1[of]**  
24 that shall commence<sup>1</sup> not less than 30 days **1[following submission**  
25 and publication of] after the date<sup>1</sup> the application <sup>1</sup>is received by the  
26 department, and which comment period shall remain open for a period  
27 of not less than 30 days. The department shall establish a procedure  
28 for acknowledging receipt of public comments submitted. The text of  
29 comments submitted on a transfer of ownership application shall not  
30 be published on the department's Internet website, but shall be  
31 considered a <sup>2</sup>**[public]** government<sup>2</sup> record pursuant to P.L.1963, c.73  
32 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.)<sup>1</sup> .

33 **1[The department may]** <sup>2</sup>**[(3)** Each nursing home that is the  
34 subject of an application for a transfer of ownership shall<sup>1</sup> hold a  
35 public hearing on the application <sup>1</sup>[upon request by the applicant, the  
36 current owner, or at least 15 members of the public, in which case the]  
37 no earlier than 30 days after the date the application is received by the  
38 department. Notice of the public hearing shall be published at least  
39 seven days in advance of the public hearing on the Internet websites of  
40 the department, the nursing home, and the applicant, as well as in at  
41 least one newspaper published in each county, if any newspapers are  
42 published therein. The nursing home shall invite the Attorney General  
43 and the Commissioner of Health, or their designated representatives, to  
44 attend the hearing. The transfer of ownership<sup>1</sup> application may not be  
45 approved until after the public hearing is completed.

1 f. The department shall not issue final approval for a transfer of  
2 ownership of a <sup>1</sup>["long-term care facility"] nursing home<sup>1</sup> under this  
3 section if the department identifies any unresolved issues or questions  
4 concerning any proposed owner or principal identified in the  
5 application. The department may issue conditional approval of the  
6 transfer pending final resolution of all unresolved issues and questions,  
7 subject to appointment of a receiver or temporary manager of the  
8 facility at the applicant's expense.<sup>2</sup> <sup>1</sup>["The department may enter into  
9 a standing contract with a third party entity to provide receivership or  
10 temporary management services for the purposes of this subsection. A  
11 receiver or temporary manager appointed pursuant to this subsection  
12 shall have the authority to:

13 (1) make any repairs, improvements, or expenditures necessary to  
14 preserve the health and safety of residents and staff at the facility and  
15 to ameliorate any condition presenting a significant risk to the health  
16 or safety of residents or staff of the facility, and to direct the method or  
17 procedures by which this shall be accomplished;

18 (2) hire employees as needed to maintain mandatory staffing  
19 levels;

20 (3) receive or expend in a reasonable and prudent manner the  
21 revenues of the facility during the appointment period;

22 (4) continue the business of the facility and the care of the  
23 residents of the facility in all aspects;

24 (5) perform all acts necessary or appropriate to conserve the  
25 property and promote the health, safety, and welfare of the residents of  
26 the facility; and

27 (6) exercise any other powers or authority conferred by the  
28 department by regulation or in the appointment agreement.<sup>1</sup>

29 <sup>2</sup>["g. When"] e. The Department shall complete review of any  
30 transfer of ownership application submitted pursuant to subsection a.  
31 of this section no later than 120 days after the date the application is  
32 received. If<sup>2</sup> a transfer of ownership application has been reviewed  
33 and deemed acceptable, <sup>1</sup>the department shall send<sup>1</sup> an approval letter  
34 <sup>1</sup>["from the Long-Term Care Licensing and Certification Program shall  
35 be sent"]<sup>1</sup> to the applicant <sup>1</sup>["along with licensure application forms"]<sup>1</sup> .

36 <sup>2</sup>["h."] f.<sup>2</sup> Within five days after the transaction has been  
37 completed, the applicant shall submit <sup>1</sup>["the following documents to the  
38 Long-Term Care Licensing and Certification Program:

39 (1) completed licensure application forms;

40 (2) to the department certification of closing from an attorney or<sup>1</sup>  
41 a notarized letter <sup>1</sup>["from the applicant"]<sup>1</sup> stating the date on which the  
42 transaction occurred <sup>1</sup>["; and

43 (3) a copy of a certificate of continuing occupancy from the local  
44 township, or a letter from the township verifying a policy of not  
45 issuing any such document for changes of ownership<sup>1</sup> , along with an  
46 executed bill of sale or assignment. To facilitate the timely transfer of  
47 Medicare and Medicaid provider numbers, the department shall issue

1 the new license to the applicant no later than 30 days after the date the  
2 notice is received by the department<sup>1</sup> .

3 <sup>2</sup>[i.]<sup>2</sup> <sup>1</sup>[[The department shall provide for enhanced monitoring of  
4 direct care loss ratios reported by a long-term care facility pursuant to  
5 subsection c. of section 3 of P.L. , c. (C. ) (pending before the  
6 Legislature as Senate Bill No.2758 or Assembly Bill No.4482 of  
7 2020/2021) for three years following a transfer of ownership of the  
8 long-term care facility.

9 j. For a period of six months following the date a transfer of  
10 ownership of a long-term care facility is approved under this section,  
11 no other transfer of ownership of that long-term care facility shall be  
12 approved.

13 k.]<sup>1</sup> <sup>2</sup>g.<sup>2</sup> No <sup>1</sup>[[long-term care facility] nursing home<sup>1</sup> may  
14 delegate <sup>1</sup>substantial<sup>1</sup> management <sup>1</sup>control<sup>1</sup> of the <sup>1</sup>[[facility] nursing  
15 home's operations<sup>1</sup> to a third party entity without <sup>1</sup>providing<sup>1</sup> prior  
16 <sup>1</sup>[[approval by] written notice to<sup>1</sup> the department. The <sup>1</sup>notice  
17 provided by the<sup>1</sup> owners of the facility <sup>1</sup>[[shall submit]<sup>1</sup> to the  
18 department <sup>1</sup>[[for approval] shall include<sup>1</sup> :

19 (1) a copy of the management agreement;

20 (2) an organizational chart of the third party entity's proposed  
21 management team for the <sup>1</sup>[[facility] nursing home<sup>1</sup> ;

22 (3) the names and addresses of all owners <sup>1</sup>[[and] ,<sup>1</sup> principals <sup>1</sup>,  
23 and interested parties<sup>1</sup> of the third party entity; and

24 (4) a list of any other licensed health care facilities owned,  
25 operated, or managed by the third party entity in any state or territory  
26 of the United States or in the District of Columbia for the preceding  
27 <sup>1</sup>[[five] three<sup>1</sup> years, along with <sup>1</sup>[[audited] owner-certified<sup>1</sup> financial  
28 statements for each such facility for the last three years during which  
29 the facility was owned, operated, or managed by the third party entity.  
30 If the third party entity owned, operated, or managed facilities located  
31 outside New Jersey in the preceding <sup>1</sup>[[five] three<sup>1</sup> years, the  
32 application shall include <sup>1</sup>[[letters from the regulatory agency in each  
33 jurisdiction in which the third party entity owned, operated, or  
34 managed facility in the preceding five years verifying that the facility  
35 was operated in substantial compliance with the laws of that  
36 jurisdiction throughout the preceding five year period or for such time  
37 during that period as the third party entity owned, operated, or  
38 managed the facility, and that the facility has had no] disclosures by  
39 the third party entity of any<sup>1</sup> enforcement actions imposed during that  
40 period of time <sup>1</sup>against any facility owned, operated, or managed by  
41 the third party entity in any jurisdiction<sup>1</sup> .

42 <sup>1</sup>[[i.] <sup>2</sup>[[j.]<sup>1</sup> h.<sup>2</sup> (1) Upon request by the Commissioner of Health  
43 and subject to the provisions of P.L.1968, c.266 (C.52:9M-1 et seq.),  
44 the State Commission of Investigation shall undertake an investigation  
45 of one or more <sup>1</sup>[[long-term care facilities] nursing homes<sup>1</sup> in the State  
46 or the entities owning, operating, or managing one or <sup>1</sup>[[long-term care

1 facilities] more nursing homes<sup>1</sup> in the State, provided that, if the  
 2 commission determines that the request for an investigation from  
 3 Commissioner of Health exceeds the commission's capacity to perform  
 4 such investigations, the commission may advise the Commissioner of  
 5 Health as to any requests upon which it finds itself unable to proceed.  
 6 The State Commission of Investigation may, at any time, submit to the  
 7 Governor, the Commissioners of Health and Human Services, and,  
 8 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the  
 9 Legislature, recommendations for administrative or legislative action  
 10 to improve oversight and transparency in <sup>1</sup>[long-term care facilities]  
 11 nursing homes<sup>1</sup> .

12 (2) <sup>2</sup>[Upon approval by the Senate President and the Speaker of  
 13 the General Assembly, the State Auditor shall undertake an  
 14 investigation of one or more <sup>1</sup>[long-term care facilities] nursing  
 15 homes<sup>1</sup> in the State or the entities owning, operating, or managing one  
 16 or <sup>1</sup>[long-term care facilities] more nursing homes<sup>1</sup> in the State.

17 (3) <sup>2</sup> The State Auditor shall undertake a review of the oversight  
 18 of <sup>1</sup>[long-term care facilities] nursing homes<sup>1</sup> by the Department of  
 19 Health and the Department of Human Services at least once every  
 20 three years, with particular focus on compliance with federal  
 21 inspection requirements, responses to complaints and response times  
 22 in reviewing complaints, and actions taken to follow up on violations  
 23 affecting the health, safety, or welfare of residents.

24 <sup>1</sup>[m.] <sup>2</sup>[k.1] i. <sup>2</sup> As used in <sup>2</sup>[this section and in section 3]  
 25 sections 2 through 4<sup>2</sup> of this act <sup>1</sup>["principal"] :

26 "Interested party<sup>1</sup> means any individual or entity with an interest of  
 27 <sup>1</sup>[five percent or more] one percent or more but less than <sup>2</sup>[10] five<sup>2</sup>  
 28 percent<sup>1</sup> in an applicant to receive a transfer of ownership of a <sup>1</sup>[long-  
 29 term care facility] nursing home or the land or other real property on  
 30 which a nursing home is located.

31 "Principal" means any individual or entity with an interest of  
 32 <sup>2</sup>[10] five<sup>2</sup> percent or more in an applicant to receive a transfer of  
 33 ownership of a nursing home or the land or real property on which a  
 34 nursing home is located<sup>1</sup> .

35  
 36 <sup>2</sup>3. (New section) a. A transfer of ownership application  
 37 submitted to the Department of Health pursuant to subsection a. of  
 38 section 2 of this act shall meet the following requirements:

39 (1) In the case of an application to transfer controlling interest in a  
 40 nursing home to an individual or entity that has never previously  
 41 owned or operated a licensed health care facility in New Jersey, or for  
 42 any application to transfer controlling interest in a nursing home that is  
 43 submitted within six months after a prior application for transfer of  
 44 controlling interest in the nursing home was approved, the applicant  
 45 shall:

- 1       (a) submit a projection of profits and losses for the next three years  
2 and a capital budget projection for the next three years;
- 3       (b) disclose any licensed health care facilities owned, operated, or  
4 managed by the proposed owners and principals in any state or  
5 territory of the United States or in the District of Columbia in the  
6 preceding three years, along with owner-certified financial statements  
7 for each such facility for the last three years during which the facility  
8 was owned, operated, or managed by owner or principal and  
9 disclosures by the applicant as to any enforcement actions imposed  
10 during that period of time against any facility owned, operated, or  
11 managed by the applicant in any jurisdiction;
- 12       (c) hold a public hearing on the application no earlier than 30 days  
13 after the date the application is received by the department. Notice of  
14 the public hearing shall be published at least seven days in advance of  
15 the public hearing on the Internet websites of the department, the  
16 nursing home, and the applicant, as well as in at least one newspaper  
17 published in each county, if any newspapers are published therein.  
18 The nursing home shall invite the Attorney General and the  
19 Commissioner of Health, or their designated representatives, to attend  
20 the hearing. The transfer of ownership application may not be  
21 approved until after the public hearing is completed; and
- 22       (d) consistent with the requirements of subsection b. of this  
23 section, submit to a criminal history record background check of each  
24 proposed owner and principal;
- 25       (2) In the case of an application to transfer controlling interest in a  
26 nursing home to an individual or entity that has previously owned or  
27 operated a licensed health care facility in New Jersey, the applicant  
28 shall:
- 29       (a) submit a projection of profits and losses for the next three years  
30 and a capital budget projection for the next three years; and
- 31       (b) disclose any licensed health care facilities owned, operated, or  
32 managed by the proposed owners and principals in any state or  
33 territory of the United States or in the District of Columbia in the  
34 preceding year, along with owner-certified financial statements for  
35 each facility owned, operated, or managed by the proposed owners and  
36 principals in New Jersey for the last year during which the facility was  
37 owned, operated, or managed by owner or principal;
- 38       (3) In the case of an application to transfer less than a controlling  
39 interest in a nursing home to an individual or entity that has never  
40 previously owned or operated a licensed health care facility in New  
41 Jersey, the applicant shall:
- 42       (a) disclose any licensed health care facilities owned, operated, or  
43 managed by the proposed owners and principals in any state or  
44 territory of the United States or in the District of Columbia in the  
45 preceding year and any enforcement actions imposed during the  
46 preceding year against any facility owned, operated, or managed by  
47 the applicant in any jurisdiction; and

1 (b) consistent with the requirements of subsection b. of this  
2 section, submit to a criminal history record background check of each  
3 proposed owner and principal; and

4 (4) In the case of an application to transfer less than a controlling  
5 interest in a nursing home to an individual or entity that has previously  
6 owned or operated a licensed health care facility in New Jersey, the  
7 applicant shall disclose any licensed health care facilities owned,  
8 operated, or managed by the proposed owners and principals in any  
9 state or territory of the United States or in the District of Columbia in  
10 the preceding year and any enforcement actions imposed during the  
11 preceding year against any facility owned, operated, or managed by  
12 the applicant in any jurisdiction.

13 b. (1) An applicant for a transfer of ownership of a nursing home  
14 who is required to complete a criminal history record background  
15 check pursuant to subsection a. of this section shall submit to being  
16 fingerprinted in accordance with applicable State and federal laws,  
17 rules, and regulations. An applicant shall bear the cost for the criminal  
18 history record background check, including all costs of administering  
19 and processing the check.

20 (2) For the purposes of subsection a. of this section, the department  
21 is authorized to exchange fingerprint data with and receive criminal  
22 history record background information from the Division of State  
23 Police and the Federal Bureau of Investigation consistent with the  
24 provisions of applicable federal and State laws, rules, and regulations.  
25 Upon receipt of such notification, the department shall make a  
26 determination as to whether transferring all or part of the ownership of  
27 a nursing home to the applicant would constitute a material risk to the  
28 health, safety, or welfare of residents of the nursing home, which shall  
29 include determining whether any owner or principal has a prior  
30 conviction involving fraud or any other criminal offense of a financial  
31 nature, or a prior conviction that may bear on the health and safety of  
32 residents of a long-term care facility, including, but not limited to, a  
33 prior conviction involving abuse, neglect, or exploitation of any  
34 person.

35 (3) The Division of State Police shall promptly notify the  
36 department in the event that an individual who was the subject of a  
37 criminal history record background check conducted pursuant to  
38 subsection a. of this section is convicted of a crime or offense in this  
39 State after the date the background check was performed. Upon  
40 receipt of that notification, the department shall make a determination  
41 regarding the continued eligibility for the individual to be an owner or  
42 principal of a nursing home.<sup>2</sup>

43  
44 <sup>2</sup>**[3.]** 4.<sup>2</sup> (New section) a. <sup>1</sup>**[**The sale or transfer of the land or  
45 other real property on which a long-term care facility is located shall  
46 not require a certificate of need except when the proposed owner does  
47 not satisfy the Department of Health's track record review, including a  
48 review of the dashboard data published pursuant to subsection f. of

1 section 3 of P.L. , c. (C. ) (pending before the Legislature as  
2 Senate Bill No. 2759 or Assembly Bill No. 4478 of 2020/2021) for the  
3 facility for the preceding three years, if available.

4 b. <sup>1</sup> Prior to selling or transferring ownership of the land or other  
5 real property on which a <sup>1</sup> ~~long-term care facility~~ nursing home<sup>1</sup> is  
6 located, the prospective new owner shall submit <sup>1</sup> ~~an application to~~  
7 the Long Term Care Licensing and Certification Program. The  
8 ~~application~~ notice to the Department of Health and the Department of  
9 Human Services, which notice<sup>1</sup> shall include the following items:

10 (1) the sale or transfer of real property fee established by the  
11 <sup>1</sup> ~~department~~ Department of Health<sup>1</sup> ;

12 (2) a cover letter stating the applicant's intent to purchase the land  
13 or other real property on which a <sup>1</sup> ~~long-term care facility~~ nursing  
14 home<sup>1</sup> is located, and identification of the <sup>1</sup> ~~facility~~ nursing home<sup>1</sup>  
15 by name, address, and county;

16 (3) a description of the proposed transaction, including:

17 (a) identification of the current owners of the land or other real  
18 property on which a <sup>1</sup> ~~long-term care facility~~ nursing home<sup>1</sup> is  
19 located;

20 (b) identification of 100 percent of the proposed new owners,  
21 including the names and addresses of all principals <sup>1</sup> ~~and interested~~  
22 parties<sup>1</sup> ; and

23 (c) if applicable, a copy of an organizational chart, including  
24 parent corporations and wholly-owned subsidiaries;

25 (4) a copy of the agreement of sale or transfer, the proposed terms  
26 of the lease, rent, or use agreement with the <sup>1</sup> ~~long-term care facility~~  
27 nursing home<sup>1</sup> and, if applicable, a copy of any management  
28 agreements; and

29 (5) an attestation <sup>1</sup> ~~that~~ by<sup>1</sup> the new owners <sup>1</sup> ~~of the land or other~~  
30 real property that they<sup>1</sup> will lease, rent, or authorize use of the land or  
31 other real property by the <sup>1</sup> ~~long-term care facility~~ nursing home<sup>1</sup> at  
32 a rate that is <sup>1</sup> ~~no more than twice the prevailing~~ consistent with the<sup>1</sup>  
33 fair market <sup>1</sup> ~~rate~~ value<sup>1</sup> for the lease, rent, or use of <sup>1</sup> ~~real property~~  
34 by a long-term care facility, as compared with comparable uses in  
35 comparable locations and settings at the time the lease, rental, or use  
36 agreement is executed] similar facilities in the same market area.

37 b. A summary of the notice submitted pursuant to subsection a. of  
38 this section, including the names of the prospective new owners, shall  
39 be made available on the Department of Health's Internet website<sup>1</sup> .

40 c. <sup>1</sup> ~~Sale and transfer of ownership application materials for the~~  
41 land or real property on which a long-term care facility is located shall  
42 be made available on the department's Internet website and shall be  
43 subject to public comment for a period of not less than 30 days  
44 following submission and publication of the application. The  
45 department may hold a public hearing on the application upon request  
46 by the applicant, the current owner, or at least 15 members of the

1 public, in which case the application may not be approved until after  
2 the public hearing is completed.

3 d. The department shall not issue final approval for a sale or  
4 transfer of ownership of the land or other real property on which a  
5 long-term care facility is located under this section if the department  
6 identifies any unresolved issues or questions concerning any proposed  
7 owner or principal identified in the application.

8 e. (1) The owner of land or real property on which a long-term  
9 care facility is located shall submit to the department a copy of any  
10 lease, rent, or use agreement executed by the owner of the land or real  
11 property and the long-term care facility on or after the effective date of  
12 this act, which agreement shall be submitted to the department no later  
13 than 30 days after the date the agreement is executed. The department  
14 shall review the terms of the agreement and determine whether the  
15 amount charged for the lease, rent, or use of the land or real property  
16 exceeds more than twice the fair market value for the lease, rent, or  
17 use of land or real property by a long-term care facility, based on an  
18 assessment of comparable uses in comparable locations and settings.

19 (2) If the department determines that the terms of the lease, rent, or  
20 use agreement for land or real property by a long-term care facility  
21 exceed twice the prevailing fair market rate for the lease, rent, or use  
22 of real property by a long-term care facility, the department may:

23 (a) require the owner of the land or real property to reimburse the  
24 long-term care facility the balance of any payments made for the lease,  
25 rent, or use of the land or real property under the current agreement  
26 that were in excess of twice the prevailing fair market value for the  
27 lease, rent, or use of the real property by the long-term care facility;  
28 and

29 (b) require the parties to the agreement to execute a revised  
30 agreement under lease, rent, or use terms that do not exceed twice the  
31 fair market rate for the lease, rent, or use of land or real property by a  
32 long-term care facility.

33 (3) The owner of land or real property on which a long-term care  
34 facility is located may request review of the department's  
35 determination of the prevailing fair market value of the lease, rent, or  
36 use of land or real property by a long-term care facility, which review  
37 shall be conducted by the Commissioner of Health. The  
38 commissioner's determination upon review shall constitute a final  
39 agency decision subject to review by the Appellate Division of the  
40 Superior Court】

41 <sup>2</sup>【(1) The Department of Human Services shall utilize the direct  
42 care ratios reported pursuant to subsection c. of section 3 of P.L.2020,  
43 c.89 (C.30:4D-7cc) to determine the】 Nursing homes shall report to  
44 the Department of Health their rates or<sup>2</sup> average rates for the lease,  
45 rent, or use of land or other real property <sup>2</sup>【by nursing homes in the  
46 State, which average rates shall be adjusted in each market area to

1 account for factors that affect the average lease, rent, or use rates in  
 2 that market area.

3 (2) The Department of Human Services shall have the authority to:

4 (a) establish a cap on the amount that may be paid by a nursing  
 5 home for the lease, rent, or use of land or other real property by the  
 6 nursing home;

7 (b) determine whether a nursing home is paying a lease, rent, or  
 8 use rate for land or other real property that significantly exceeds the  
 9 fair market value for similar facilities in the same market area to lease,  
 10 rent, or use land or other real property; and

11 (c) require that any lease, rent, or use rate paid by a nursing home  
 12 that significantly exceeds the fair market value for the lease, rent, or  
 13 use of similar facilities in that market area be reduced, for the duration  
 14 of the current lease, rent, or use agreement, to match the average lease,  
 15 rent, or use rate for similar facilities in the same market area<sup>1</sup> in a  
 16 manner determined by the department. The department shall post the  
 17 rates or average rates for the lease, rent, or use of land or other real  
 18 property reported by nursing homes on its Internet website<sup>2</sup>.

19

20 <sup>2</sup>**[4.]** 5.<sup>2</sup> (New section) The Department of <sup>1</sup>**[Health** shall use  
 21 the information reported by long-term care facilities pursuant to  
 22 P.L. , c. (C. ) (pending before the Legislature as Senate Bill No.  
 23 2759 or Assembly Bill No. 4478 of 2020/2021) to identify facilities]  
 24 <sup>2</sup>**[Human Services shall utilize the direct care ratios reported pursuant**  
 25 to subsection c. of section 3 of P.L.2020, c.89 (C.30:4D-7cc) to assist  
 26 the Department of Health identifying] Health shall as necessary, with  
 27 assistance from the Department of Human Services, identify<sup>2</sup> nursing  
 28 homes<sup>1</sup> that may be in acute financial distress or at risk of filing for  
 29 bankruptcy protection <sup>1</sup>**[, and]** <sup>2</sup>**[. The Department of Health shall<sup>1</sup>**  
 30 develop strategies to assist those <sup>1</sup>**[facilities in avoiding]** nursing  
 31 homes that are determined to be in acute financial distress or at risk of  
 32 filing for bankruptcy protection to avoid<sup>1</sup> bankruptcy or the need to  
 33 close] by requiring each nursing home to report, within five business  
 34 days, any default in the punctual payment when due of any: debt  
 35 service payment where the debt is secured by real estate or assets of  
 36 the nursing home; rent payment; payroll; or payroll tax obligation<sup>2</sup>.  
 37 The <sup>1</sup>**[department]** <sup>2</sup>**[Department of Health<sup>1</sup>] department<sup>2</sup>** may, as  
 38 appropriate:

39 a. <sup>2</sup>**[Provide]** provide, at the nursing home's expense, or direct  
 40 such nursing home to<sup>2</sup> management support services and resources, as  
 41 well as any other supports as may be necessary and appropriate to  
 42 avoid bankruptcy proceedings or cessation of operations;

43 b. <sup>2</sup>**[Initiate]** if the nursing homes does not take sufficient and  
 44 timely action to avoid an impending bankruptcy or closure, and if the  
 45 department finds the bankruptcy or closure would have a significant  
 46 adverse effect on the health, safety, and welfare of the residents of the

1 nursing home or would leave the area in which the nursing home is  
2 located lacking sufficient nursing home services after assessing the  
3 need for and availability of other nursing home services in the area,  
4 initiate<sup>2</sup> proceedings in a court of competent jurisdiction for the  
5 appointment of a receiver for the <sup>1</sup>**【long-term care facility】** nursing  
6 home<sup>1</sup>, which receiver shall have the powers and authorities conferred  
7 by the order of receivership, which may include, but shall not be  
8 limited to, the authority to:

9 (1) hire any consultants or to undertake any studies of the  
10 <sup>1</sup>**【facility】** nursing home<sup>1</sup> the receiver deems appropriate;

11 (2) make any repairs or improvements as are necessary to ensure  
12 the safety of <sup>1</sup>**【facility】** nursing home<sup>1</sup> residents and staff;

13 (3) hire or discharge any employees, including the administrator or  
14 manager of the <sup>1</sup>**【facility】** nursing home<sup>1</sup> ;

15 (4) receive or expend in a reasonable and prudent manner the  
16 revenues of the <sup>1</sup>**【facility】** nursing home<sup>1</sup> due on the date of the entry  
17 of the order of receivership and to become due under such order;

18 (5) continue the business of the <sup>1</sup>**【facility】** nursing home<sup>1</sup> and the  
19 care of the residents of the <sup>1</sup>**【facility】** nursing home<sup>1</sup> in all its aspects;

20 (6) do all acts necessary or appropriate to conserve the property  
21 and promote the health, safety, and welfare of the residents of the  
22 <sup>1</sup>**【facility】** nursing home<sup>1</sup> ; and

23 (7) exercise such other powers as the receiver deems necessary or  
24 appropriate to implement the court order; and

25 c. Take such other steps and actions as may be available to ensure  
26 continuity of care for, and the safety of, residents of the <sup>1</sup>**【facility】**  
27 nursing home<sup>1</sup> .

28

29 <sup>2</sup>**【5.】** 6.<sup>2</sup> This act shall take effect <sup>1</sup>**【60】** <sup>2</sup>**【120<sup>1</sup>】** 180<sup>2</sup> days after  
30 the date of enactment.