

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 4477

with Assembly Floor Amendments
(Proposed by Assemblyman CHIARAVALLOTI)

ADOPTED: MARCH 1, 2021

These Assembly amendments provide that licensed nursing home beds that are added pursuant to a current exemption from certificate of need requirements or that are part of an unimplemented certificate of need may be transferred to another nursing home, but will be subject to the certificate of need approval process.

The amendments revise the requirements to apply for transfers of ownership of a nursing home to replace a standard that applied to all transfers of ownership, to create four levels of review based on whether the applicant has ever owned or operated a licensed health care facility in New Jersey and whether the transfer would pertain to a controlling or a non-controlling interest in the nursing home. The amendments provide that only certain applicants will be subject to a criminal history record background check and required to hold a public hearing on the application. The amendments further revise the look-back period concerning other health care facilities owned or operated by the applicant, which varies in duration and scope based on the level of review applicable to the application.

The amendments remove a provision that would have allowed the Department of Health (DOH) to grant conditional approval of an application, and add a requirement that the DOH complete review of all applications within 120 days after the date the application is submitted.

The amendments revise a provision concerning approval of a transfer of ownership application to make clear that applications will not be automatically approved by changing “when” to “if.”

The amendments remove a provision that would have required the State Auditor to undertake an investigation of one or more nursing homes if approved by both the Senate President and the Speaker of the General Assembly.

The amendments revise the definitions of “interested party” and “principal” to make the term “interested party” applicable to any person or entity with an ownership interest of one percent or more but less than five percent, and the term “principal” to any person or entity with an ownership interest of five percent or more.

The amendments revise a requirement for the Department of Human Services (DHS) to evaluate nursing home lease, rent, and land use agreements to determine whether the nursing home is being charged an excessive amount of rent, to instead require nursing homes to report to the Department of Health (DOH) their lease, rent, or land

use rates, or the average rates, which reported rates the DOH will post on its Internet website.

The amendments revise a requirement that the DHS utilize direct care ratios to help the DOH to identify nursing homes in financial distress or at risk of filing for bankruptcy to instead require nursing homes to report to the DOH any time they miss certain types of payments, including debt service, rent, payroll, or payroll taxes. The DOH is to undertake the task of identifying nursing homes in financial distress, with the assistance of the DHS, on an as-needed basis.

The amendments add a requirement that, if the DOH provides management support services and resources to a nursing home, those services and resources will be provided at the nursing home's expense. The amendments add language that will alternatively allow the DOH to direct a nursing home to management support services and resources.

The amendments revise a provision allowing the DOH to initiate receivership proceedings, to provide that the DOH may initiate the proceedings in situations where the nursing home does not take sufficient and timely action to avoid an impending bankruptcy or closure, and the DOH finds the bankruptcy or closure would have a significant adverse effect on the health, safety, and welfare of the residents of the nursing home or the DOH determines that bankruptcy or closure would leave the area in which the nursing home is located lacking sufficient nursing home services.

The amendments revise the effective date of the bill from 120 days after the date of enactment to 180 days after the date of enactment.

The amendments make a number of technical changes, including revising a reference to "public records" to read "government record" to reflect current statutory usage and making certain changes involving capitalization.