

§§2-4 -  
C.26:2H-7.25 to  
26:2H-7.27  
§5 - C.26:2H-42.1  
§6 - Note

P.L. 2021, CHAPTER 95, *approved May 12, 2021*  
Assembly, No. 4477 (*Second Reprint*)

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 **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.**

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

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

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

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

12       (a) identification of the current owners of the <sup>1</sup> **long-term care**  
13 **facility** nursing home<sup>1</sup>;

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

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

19       (4) a copy of the agreement of sale and, if applicable, a copy of  
20 any lease and management agreements <sup>2</sup> **;**

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

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

40       The applicant may additionally submit a summary of the  
41 application materials that includes such details concerning the  
42 application as are required by the department, but that omits any  
43 proprietary information in the contracts for the sale or management of  
44 the nursing home, and any home addresses, social security numbers, or  
45 other personal information of any proposed owner, principal, or  
46 interested party. A summary prepared by the applicant may only be

1 used for the purposes of posting information concerning the  
2 application on the department's Internet website pursuant to paragraph  
3 (1) of subsection <sup>2</sup>[e.] d. <sup>2</sup> of this section.

4 b. Information submitted pursuant to subsection a. of this section  
5 <sup>2</sup>or subsection a. of section 3 of this act<sup>2</sup> by an applicant for transfer of  
6 ownership of a nursing home shall not be used in any adverse licensure  
7 action or disciplinary action against the applicant<sup>1</sup>.

8 c. Approval of a transfer of ownership of a <sup>1</sup>[long-term care  
9 facility] nursing home<sup>1</sup> is contingent upon:

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

21 (2) payment of all outstanding <sup>1</sup>and issued<sup>1</sup> Medicaid audit claims  
22 and State penalties issued by the department against the current owner,  
23 <sup>1</sup>[or] unless such claims remain under appeal, in which case, if the  
24 claim remains under appeal, the applicant shall submit<sup>1</sup> written  
25 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  
26 current owners of the nursing home<sup>1</sup> will assume responsibility for  
27 payment of such audit <sup>1</sup>[findings] recoveries<sup>1</sup> and State penalties <sup>1</sup>at  
28 the conclusion of the appeal<sup>1</sup> <sup>2</sup>]; and

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

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

1 a transfer of ownership of a <sup>1</sup>~~["long-term care facility"]~~ nursing home<sup>1</sup>  
 2 who is required to complete a criminal history record background  
 3 check pursuant to this section shall submit to being fingerprinted in  
 4 accordance with applicable State and federal laws, rules, and  
 5 regulations. An applicant shall bear the cost for the criminal history  
 6 record background check, including all costs of administering and  
 7 processing the check. <sup>1</sup>The Division of State Police shall promptly  
 8 notify the department in the event that an individual who was the  
 9 subject of a criminal history record background check conducted  
 10 pursuant to paragraph (3) of subsection c. of this section is convicted  
 11 of a crime or offense in this State after the date the background check  
 12 was performed. Upon receipt of that notification, the department shall  
 13 make a determination regarding the continued eligibility for the  
 14 individual to be an owner or principal of a nursing home.<sup>1</sup>

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

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

38 <sup>1</sup>~~["The department may"]~~ <sup>2</sup>~~["(3) Each nursing home that is the~~  
 39 subject of an application for a transfer of ownership shall<sup>1</sup> hold a  
 40 public hearing on the application <sup>1</sup>~~["upon request by the applicant, the~~  
 41 current owner, or at least 15 members of the public, in which case the"]  
 42 no earlier than 30 days after the date the application is received by the  
 43 department. Notice of the public hearing shall be published at least  
 44 seven days in advance of the public hearing on the Internet websites of  
 45 the department, the nursing home, and the applicant, as well as in at  
 46 least one newspaper published in each county, if any newspapers are

1 published therein. The nursing home shall invite the Attorney General  
2 and the Commissioner of Health, or their designated representatives, to  
3 attend the hearing. The transfer of ownership<sup>1</sup> application may not be  
4 approved until after the public hearing is completed.

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

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

22 (2) hire employees as needed to maintain mandatory staffing  
23 levels;

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

26 (4) continue the business of the facility and the care of the  
27 residents of the facility in all aspects;

28 (5) perform all acts necessary or appropriate to conserve the  
29 property and promote the health, safety, and welfare of the residents of  
30 the facility; and

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

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

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

43 (1) completed licensure application forms;

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

(3) a copy of a certificate of continuing occupancy from the local township, or a letter from the township verifying a policy of not issuing any such document for changes of ownership<sup>1</sup>, along with an executed bill of sale or assignment. To facilitate the timely transfer of Medicare and Medicaid provider numbers, the department shall issue the new license to the applicant no later than 30 days after the date the notice is received by the department<sup>1</sup>.

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

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

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 delegate <sup>1</sup>substantial<sup>1</sup> management <sup>1</sup>control<sup>1</sup> of the <sup>1</sup>~~[facility]~~ nursing home's operations<sup>1</sup> to a third party entity without <sup>1</sup>providing<sup>1</sup> prior <sup>1</sup>~~[approval by]~~ written notice to<sup>1</sup> the department. The <sup>1</sup>notice provided by the<sup>1</sup> owners of the facility <sup>1</sup>~~[shall submit]~~<sup>1</sup> to the department <sup>1</sup>~~[for approval]~~ shall include<sup>1</sup> :

(1) a copy of the management agreement;

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

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

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

1       <sup>1</sup>[l.] <sup>2</sup>[j.<sup>1</sup>] h.<sup>2</sup> (1) Upon request by the Commissioner of Health  
 2 and subject to the provisions of P.L.1968, c.266 (C.52:9M-1 et seq.),  
 3 the State Commission of Investigation shall undertake an investigation  
 4 of one or more <sup>1</sup>[long-term care facilities] nursing homes<sup>1</sup> in the State  
 5 or the entities owning, operating, or managing one or <sup>1</sup>[long-term care  
 6 facilities] more nursing homes<sup>1</sup> in the State, provided that, if the  
 7 commission determines that the request for an investigation from  
 8 Commissioner of Health exceeds the commission's capacity to perform  
 9 such investigations, the commission may advise the Commissioner of  
 10 Health as to any requests upon which it finds itself unable to proceed.  
 11 The State Commission of Investigation may, at any time, submit to the  
 12 Governor, the Commissioners of Health and Human Services, and,  
 13 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the  
 14 Legislature, recommendations for administrative or legislative action  
 15 to improve oversight and transparency in <sup>1</sup>[long-term care facilities]  
 16 nursing homes<sup>1</sup> .

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

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

29       <sup>1</sup>[m.] <sup>2</sup>[k.<sup>1</sup>] i.<sup>2</sup> As used in <sup>2</sup>[this section and in section 3]  
 30 sections 2 through 4<sup>2</sup> of this act <sup>1</sup>[, “principal”] :

31       “Interested party”<sup>1</sup> means any individual or entity with an interest of  
 32 <sup>1</sup>[five percent or more] one percent or more but less than <sup>2</sup>[10] five<sup>2</sup>  
 33 percent<sup>1</sup> in an applicant to receive a transfer of ownership of a <sup>1</sup>[long-  
 34 term care facility] nursing home or the land or other real property on  
 35 which a nursing home is located.

36       “Principal” means any individual or entity with an interest of  
 37 <sup>2</sup>[10] five<sup>2</sup> percent or more in an applicant to receive a transfer of  
 38 ownership of a nursing home or the land or real property on which a  
 39 nursing home is located<sup>1</sup> .

40  
 41       <sup>2</sup>3. (New section) a. A transfer of ownership application  
 42 submitted to the Department of Health pursuant to subsection a. of  
 43 section 2 of this act shall meet the following requirements:

44       (1) In the case of an application to transfer controlling interest in a  
 45 nursing home to an individual or entity that has never previously  
 46 owned or operated a licensed health care facility in New Jersey, or for

1 any application to transfer controlling interest in a nursing home that is  
2 submitted within six months after a prior application for transfer of  
3 controlling interest in the nursing home was approved, the applicant  
4 shall:

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

7 (b) disclose any licensed health care facilities owned, operated, or  
8 managed by the proposed owners and principals in any state or  
9 territory of the United States or in the District of Columbia in the  
10 preceding three years, along with owner-certified financial statements  
11 for each such facility for the last three years during which the facility  
12 was owned, operated, or managed by owner or principal and  
13 disclosures by the applicant as to any enforcement actions imposed  
14 during that period of time against any facility owned, operated, or  
15 managed by the applicant in any jurisdiction;

16 (c) hold a public hearing on the application no earlier than 30 days  
17 after the date the application is received by the department. Notice of  
18 the public hearing shall be published at least seven days in advance of  
19 the public hearing on the Internet websites of the department, the  
20 nursing home, and the applicant, as well as in at least one newspaper  
21 published in each county, if any newspapers are published therein.  
22 The nursing home shall invite the Attorney General and the  
23 Commissioner of Health, or their designated representatives, to attend  
24 the hearing. The transfer of ownership application may not be  
25 approved until after the public hearing is completed; and

26 (d) consistent with the requirements of subsection b. of this  
27 section, submit to a criminal history record background check of each  
28 proposed owner and principal;

29 (2) In the case of an application to transfer controlling interest in a  
30 nursing home to an individual or entity that has previously owned or  
31 operated a licensed health care facility in New Jersey, the applicant  
32 shall:

33 (a) submit a projection of profits and losses for the next three years  
34 and a capital budget projection for the next three years; and

35 (b) disclose any licensed health care facilities owned, operated, or  
36 managed by the proposed owners and principals in any state or  
37 territory of the United States or in the District of Columbia in the  
38 preceding year, along with owner-certified financial statements for  
39 each facility owned, operated, or managed by the proposed owners and  
40 principals in New Jersey for the last year during which the facility was  
41 owned, operated, or managed by owner or principal;

42 (3) In the case of an application to transfer less than a controlling  
43 interest in a nursing home to an individual or entity that has never  
44 previously owned or operated a licensed health care facility in New  
45 Jersey, the applicant shall:

46 (a) disclose any licensed health care facilities owned, operated, or  
47 managed by the proposed owners and principals in any state or  
48 territory of the United States or in the District of Columbia in the



1 preceding year and any enforcement actions imposed during the  
2 preceding year against any facility owned, operated, or managed by  
3 the applicant in any jurisdiction; and

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

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

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

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

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

46  
47 <sup>2</sup>**[3.]** 4.<sup>2</sup> (New section) a. <sup>1</sup>**[**The sale or transfer of the land or  
48 other real property on which a long-term care facility is located shall

1 not require a certificate of need except when the proposed owner does  
2 not satisfy the Department of Health's track record review, including a  
3 review of the dashboard data published pursuant to subsection f. of  
4 section 3 of P.L. , c. (C. ) (pending before the Legislature as  
5 Senate Bill No. 2759 or Assembly Bill No. 4478 of 2020/2021) for the  
6 facility for the preceding three years, if available.

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

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

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

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

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

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

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

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

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

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

42 c. <sup>1</sup> ~~Sale and transfer of ownership application materials for the~~  
43 ~~land or real property on which a long-term care facility is located shall~~  
44 ~~be made available on the department's Internet website and shall be~~  
45 ~~subject to public comment for a period of not less than 30 days~~  
46

1 following submission and publication of the application. The  
2 department may hold a public hearing on the application upon request  
3 by the applicant, the current owner, or at least 15 members of the  
4 public, in which case the application may not be approved until after  
5 the public hearing is completed.

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

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

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

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

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

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

44 <sup>2</sup>【(1) The Department of Human Services shall utilize the direct  
45 care ratios reported pursuant to subsection c. of section 3 of P.L.2020,  
46 c.89 (C.30:4D-7cc) to determine the】 Nursing homes shall report to  
47 the Department of Health their rates or<sup>2</sup> average rates for the lease,

rent, or use of land or other real property <sup>2</sup>by nursing homes in the State, which average rates shall be adjusted in each market area to account for factors that affect the average lease, rent, or use rates in that market area.

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

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

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

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

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

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

b. <sup>2</sup>Initiate<sup>2</sup> if the nursing homes does not take sufficient and timely action to avoid an impending bankruptcy or closure, and if the

1 department finds the bankruptcy or closure would have a significant  
2 adverse effect on the health, safety, and welfare of the residents of the  
3 nursing home or would leave the area in which the nursing home is  
4 located lacking sufficient nursing home services after assessing the  
5 need for and availability of other nursing home services in the area,  
6 initiate<sup>2</sup> proceedings in a court of competent jurisdiction for the  
7 appointment of a receiver for the <sup>1</sup>**["long-term care facility"]** nursing  
8 home<sup>1</sup>, which receiver shall have the powers and authorities conferred  
9 by the order of receivership, which may include, but shall not be  
10 limited to, the authority to:

11 (1) hire any consultants or to undertake any studies of the  
12 <sup>1</sup>**["facility"]** nursing home<sup>1</sup> the receiver deems appropriate;

13 (2) make any repairs or improvements as are necessary to ensure  
14 the safety of <sup>1</sup>**["facility"]** nursing home<sup>1</sup> residents and staff;

15 (3) hire or discharge any employees, including the administrator or  
16 manager of the <sup>1</sup>**["facility"]** nursing home<sup>1</sup> ;

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

20 (5) continue the business of the <sup>1</sup>**["facility"]** nursing home<sup>1</sup> and the  
21 care of the residents of the <sup>1</sup>**["facility"]** nursing home<sup>1</sup> in all its aspects;

22 (6) do all acts necessary or appropriate to conserve the property  
23 and promote the health, safety, and welfare of the residents of the  
24 <sup>1</sup>**["facility"]** nursing home<sup>1</sup> ; and

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

27 c. Take such other steps and actions as may be available to ensure  
28 continuity of care for, and the safety of, residents of the <sup>1</sup>**["facility"]**  
29 nursing home<sup>1</sup> .

30  
31 <sup>2</sup>**["5.]** 6.<sup>2</sup> This act shall take effect <sup>1</sup>**["60"]** <sup>2</sup>**["120"]** 180<sup>2</sup> days after  
32 the date of enactment.

33  
34  
35  
36  
37 Revises licensure, operational, and reporting requirements for  
38 nursing homes.