

Office of Legislative Research
Connecticut General Assembly



OLR ACTS AFFECTING

SENIORS



2008-R-0317

Nicole Dube, Legislative Analyst II
May 16, 2008

NOTICE TO READERS

This report provides brief highlights of new laws (public acts) affecting seniors (people age 60 or older) enacted during the 2008 session. At the end of each summary we indicate the bill number or, if one is already available, public act (PA) number. At this point, not all acts have been signed by the governor.

Not all provisions of the acts are included here. Complete summaries of all 2008 public acts will be available in the fall when OLR's Public Act Summary book is published; some are already on OLR's webpage: <http://www.cga.ct.gov/olr/OLRPASums.asp>

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's Office, or the General Assembly's website: <http://www.cga.ct.gov/>.

TABLE OF CONTENTS

<u>GRANDPARENTS</u>	4
<u>Kinship Fund and Grandparents and Relatives Respite Fund Grants</u>	4
<u>HOUSING</u>	4
<u>Admission to Public and Subsidized Housing</u>	4
<u>Eligibility for DSS Emergency Housing Assistance</u>	4
<u>INSURANCE</u>	5
<u>Automobile Insurance Discounts</u>	5
<u>Viatical and Life Settlements</u>	5
<u>INVESTMENTS</u>	6
<u>Automatic Enrollment in Retirement Plans</u>	6
<u>LONG-TERM CARE</u>	6
<u>Administration of Vaccines by Certain Nurses</u>	6
<u>Alzheimer’s Special Care Units</u>	7
<u>Continuing Care At Home</u>	7
<u>Homemaker-Companion Services</u>	7
<u>Money Follows the Person Demonstration Program</u>	7
<u>NURSING HOMES</u>	8
<u>Mental Health/Mental Retardation Preadmission Screenings</u>	8
<u>Nursing Home Billing Questions for Self-Pay Patients</u>	8
<u>Small House Nursing Home Pilot</u>	9
<u>Telephone and Cable Installation Fees for Nursing Home Residents</u>	9
<u>OTHER HEALTHCARE</u>	9
<u>Hospital Staffing</u>	9
<u>Methicillin-Resistant Staphylococcus Aureus (MRSA)</u>	10
<u>Patient Access to Medical Records</u>	10
<u>Physician Assistants</u>	11
<u>Placement of Identifying Marks on Dental Prostheses</u>	11
<u>TAXES</u>	11
<u>Economic Stimulus Act of 2008</u>	11
<u>Homecare Option Program for the Elderly (HOPE)</u>	11

GRANDPARENTS

Kinship Fund and Grandparents and Relatives Respite Fund Grants

This act allows grandparents or other relative caregivers appointed guardian of a child through Superior Court who are not receiving subsidized guardianship or foster care payments from the Department of Children and Families (DCF) to apply for grants from the probate court-administered Kinship and Grandparents and Relatives Respite funds. Under prior law, only grandparents or relative caregivers appointed guardian of a child through probate court could get these grants, which are subject to available appropriations.

(PA 08-97, effective July 1, 2008)

HOUSING

Admission to Public and Subsidized Housing

This act allows certain elderly and disabled individuals accepted into state or federally subsidized housing to terminate their existing leases or rental agreements without penalty if they provide 30 days written

notice to their landlord. It applies to low-income seniors age 62 and older and individuals certified as disabled by a federal board or agency.

(PA 08-93, effective October 1, 2008 and applicable to any existing lease or rental agreement entered into, renewed, or extended on or after this date.)

Eligibility for Department of Social Services Emergency Housing Assistance

This act makes recipients of Temporary Family Assistance (TFA) or State Supplemental benefits who are foreclosure defendants eligible for Department of Social Service (DSS) emergency housing benefits when a foreclosure judgment is entered, rather than when the property owner's right to redeem has expired.

By law, when a strict foreclosure judgment is entered, the court sets a "law date" by which the property owner must make full payment on the property or lose ownership. The time to redeem the property does not expire until the end of the foreclosure process, which may limit a person's ability to secure emergency housing.

(PA 08-22, effective October 1, 2008)

INSURANCE

Automobile Insurance Discounts

By law, a driver age 60 or older is eligible for an automobile insurance premium discount for successfully completing a Department of Motor Vehicle (DMV) approved accident-prevention course. The premium discount, which is effective at the policy's next renewal, must be at least 5% and apply for at least two years. The driver must complete the course within the year before he or she applies for an initial discount. For any future discount, the driver must complete a course within the year before the current discount expires.

This act adds to what the DMV commissioner must include in regulations governing these accident-prevention courses. By law, the regulations must include the number of classroom instruction hours, DMV approval of schools and instructors, and certificate issuance to those who successfully complete the course. This act requires the regulations also to address approval of courses that drivers take on the Internet.

It requires the commissioner to adopt regulations that include methods to verify a person's (1) identity when he or she registers for, and throughout, the course, (2) participation throughout the course's duration, (3) course

completion within any time requirements the course or commissioner requires, and (4) successful course completion.

(PA 08-74, effective October 1, 2008)

Viatical and Life Settlements

This act makes several changes to the insurance laws regulating viatical and life settlements. A life settlement is the sale of a life insurance policy by the insured person to a third party for cash. The third-party purchaser becomes the owner of the policy, pays all future premiums owed on it, and collects the death benefit when the insured person dies. A life settlement differs from a viatical settlement, which is a sale of a life insurance policy to a third party by a terminally ill insured person.

Prior law required a life settlement contract to pay a life insurance policy owner whose policy is being sold an amount that is less than the policy's death benefit. The act requires the amount also to be more than the cash surrender value or accelerated death benefit available under the policy when the owner applies for the life settlement contract. (Cash surrender value is the amount the owner would receive for giving the policy back to the insurer that issued it. Accelerated death benefit is a policy option that permits a person to collect some of the

policy's death benefit while he or she is alive.)

The act prohibits a person from entering into a life settlement contract involving a life insurance policy within two years of purchasing a life insurance policy and specifies several exceptions to this prohibition, including life status changes. It also specifies that a broker represents an owner exclusively and has a fiduciary duty, including an obligation to act in the owner's best interest and according to his or her instructions. It requires brokers to give purchasers and owners certain disclosures and makes it an unfair trade practice if they do not.

INVESTMENTS

Automatic Enrollment in Retirement Plans

This act allows an employer to withhold a certain percentage of an employee's salary to invest in an automatic enrollment retirement plan unless the employee opts out of the plan or chooses to make contributions in a different amount. If an employee does not provide any investment direction, the act requires contributions to be invested according to federal regulations. An employer or other plan official who makes investment decisions on behalf of a participating employee is not liable for the decisions if the participating employee is :

1. allowed to select investments available under the plan at least quarterly;
 2. notified of all investment alternatives available under the plan, procedures for changing investments, and how contributions will be invested if the employee does not provide any direction; and
 3. notified at least annually of the actual investments made on his or her behalf.
- (**SB 157**, effective October 1, 2008)

LONG-TERM CARE

Administration of Vaccines by Certain Nurses

By law, nurses working for home health care or homemaker home health care agencies can administer flu and pneumonia vaccines to people in their homes without a physician's order after an assessment for contraindications and according to a physician-approved agency policy. This act requires the policy to include an anaphylaxis protocol. If the person has an adverse reaction to a vaccine, the act authorizes the nurse to administer epinephrine or other anaphylaxis medication without a physician's order according to the approved agency policy.

(**sHB 5701**, effective October 1, 2008)

Alzheimer's Special Care Units

This act increases, from three to eight, the number of hours that each Alzheimer's special care unit or program must annually provide Alzheimer's and dementia-specific training to licensed and registered direct care staff and nurse's aides who provide direct patient care to residents in the units or programs.

By law, these individuals must also receive at least eight hours of dementia-specific training within six months of being hired and at least two hours of annual training in pain recognition and administration of pain management techniques for direct care staff.

(**sHB 5701**, effective October 1, 2008)

Continuing Care At Home

This act allows continuing care retirement communities (CCRCs) to provide care to individuals in their own homes if they are given future access to services and shelter in the CCRC facility. Prior law allowed a CCRC to provide shelter and medical services only to residents in its facilities.

(**PA 08-36**, effective upon passage)

Homemaker-Companion Services

This act specifies that homemaker-companion agencies

can neither offer nor provide homemaker or companion services without a current Department of Consumer Protection certificate of registration. Prior law prohibited agencies only from "offering to provide" services without a certificate.

(**PA 08-17**, effective October 1, 2008)

Money Follows the Person Demonstration Program

This act increases, from 700 to 5,000, the number of individuals who can be served under the state's plan for participating in the federal Money Follows the Person (MFP) demonstration program. MFP is a five-year program that permits states to move people out of nursing homes or other institutional settings into less-restrictive, community-based settings. DSS has developed a protocol for the demonstration program, which needs federal approval before it can be implemented. The act requires, instead of allows, the DSS commissioner to apply for approval.

The act also requires the commissioner to develop a plan to establish and administer a similar home- and community-based services project for adults who may not meet the MFP institutionalization requirement. Finally, it establishes a separate, nonlapsing General Fund account to hold the enhanced

federal matching funds the state receives for MFP. It specifies the uses of account funds and requires a report on expenditures from it.

(**sSB 561**, effective July 1, 2008)

NURSING HOMES

Mental Health/Mental Retardation Preadmission Screenings

By law, all candidates for nursing home admission must receive a Level I assessment to determine if they have a mental illness or mental retardation. If that assessment indicates the possibility of mental illness or mental retardation, the person must undergo a Level II assessment to confirm the diagnosis and determine whether nursing home admission is appropriate. This act requires the Department of Public Health (DPH), when conducting its annual survey of a nursing home, to compare the recommended services for each nursing home resident administered a Level II assessment with the actual services provided in the resident's care plan. DPH must include the results of the comparison and any regulatory violations found during the home's inspection in its survey of the home.

The act also requires nursing home administrators or their designees to notify the Department of Mental Health and Addiction Services (DMHAS) no later than 14 days after an individual who received a Level II assessment confirming a psychiatric diagnosis has been admitted into a home. If an individual is a DMHAS client, the department must consult with nursing home staff on the person's status and discharge. If the client needs a short-term admission to a nursing home of 90 days or less, DMHAS must, to the extent possible, protect the client's existing housing.

(**sHB 5701**, effective upon passage)

Nursing Home Billing Practices For Self-Pay Patients

This act requires nursing homes, associated chronic disease hospitals, and residential care homes to charge self-pay patients a per-diem rather than a monthly rate beginning April 1, 2008. A self-pay patient is one who is not receiving state or municipal assistance.

Under prior law, nursing homes could bill self-pay patients using a monthly or a per-diem rate. Depending on how monthly rates were calculated, patients could be billed for days on which they did not receive care.

(**PA 08-30**, effective upon passage)

Small House Nursing Home Pilot

This act directs DSS to establish a pilot program, within existing resources, to help develop up to 10 small-house nursing homes. The pilot's goals are to improve the quality of life for nursing home residents and provide nursing home care in home-like, rather than institutional, settings. DSS must develop design specification guidelines and other requirements for the homes and submit them to the Human Services Committee by October 1, 2008 for approval.

Licensed nursing homes may apply to DSS to participate in the pilot and to relocate existing Medicaid certified beds to a small-house nursing home. Applicants must submit (1) a project description and budget, (2) information on their financial and technical capacity to undertake the project, (3) information that the bed relocation reduces the number of nursing home beds in the state, and (4) any additional information DSS deems necessary. They must also seek Medicare and Medicaid certification.

In selecting proposals, DSS must give priority to proposals that use energy efficient technology, including fuel cells. And two of the proposals selected must be to develop a small-house nursing home in a distressed municipality with more than

100,000 people. Any small-house nursing home participating in the pilot must comply with certificate of need requirements and processes.

(**sSB 559**, effective July 1, 2008)

Telephone and Cable Installation Fees for Nursing Home Residents

This act prohibits telephone and cable television providers from charging an installation fee to a resident of a residential care home, nursing home, or rest home when the resident changes rooms within the facility. The act specifies that a violation of this provision does not constitute an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act (CUTPA). It also prohibits the owner or operator of any of these facilities from charging a telephone or cable television installation fee when the resident changes rooms.

(**sSB 382**, effective October 1, 2008)

OTHER HEALTHCARE

Hospital Staffing

Beginning July 1, 2009, this act requires each licensed hospital, upon request, to make available and certify to DPH, a written plan that is sufficient to provide adequate and appropriate patient health care

services in the ensuing hospital licensure period.

The plan must:

1. include the minimum professional skill mix for each patient care unit in the hospital, including inpatient services, critical care, and the emergency department;
2. identify the hospital's employment practices for temporary and traveling nurses;
3. establish the level of administrative staffing in each patient care unit that ensures that direct patient care staff are not used for administrative functions;
4. describe the hospital's process for internal review of the plan; and
5. include the hospital's method for involving its direct care staff in developing the plan.

The act requires each hospital to establish a staffing committee to assist in preparing the nurse staffing plan. The hospital, in collaboration with the committee, must develop and implement the plan to the best of its ability. Hospitals may use existing committees to assist in plan development if at least 50% of the membership includes registered nurses whose primary responsibility is to provide direct care

(PA 08-79, effective October 1, 2008)

Methicillin-Resistant Staphylococcus Aureus (MRSA)

This act requires each licensed hospital, by January 1, 2009, to develop a plan to reduce its incidence of MRSA infection. The MRSA plan must at least include the hospital's strategies for reducing such infections. Each hospital must provide its plan, which is a public record, to DPH.

MRSA is the strain of staphylococcus aureus bacteria resistant to oxacillin or methicillin and detected and defined according to the Clinical and Laboratory Standards Institute's Performance Standards for Antimicrobial Susceptibility Testing.

(PA 08-12, effective July 1, 2008)

Patient Access to Medical Records

By law, a patient may obtain copies of his or her medical records by asking the provider in writing or having an attorney or authorized representative do so. This act increases, from 45 to 65 cents, the amount a provider can charge per page to furnish those health records. This amount includes any research fees, handling fees or related costs, and the cost of first class postage, if applicable. By law, the provider can also charge a patient the amount necessary to cover the materials costs for providing a copy of an x-ray in

certain situations. The provider must supply the health record within 30 days of the request.

(**sHB 5701**, effective October 1, 2008)

Physician Assistants

This act authorizes physician assistants, as delegated by a supervising physician, to prescribe and approve the use of durable medical equipment. It also allows physician assistants to certify a person's disability for purposes of applications to the Department of Motor Vehicles for special license plates and removable windshield placards.

(**sHB 5701, § 14, 15**, effective October 1, 2008)

Placement of Identifying Marks on Dental Prostheses

This act requires state-licensed dentists to offer to a patient who needs removable prosthetic dentures, bridges, appliances, or other structures the opportunity to have the patient's name or initials placed on the prosthesis. This applies to dentists who either make or direct the prosthesis to be made.

The markings must be done when the prosthesis is made and must be permanent, legible, and cosmetically acceptable. The dentist must advise the patient of any additional charges for the prosthesis markings. The act allows the markings to be omitted if the dentist or entity making the prosthesis

determines it is not practicable or clinically safe.

(**PA 08-24**, effective October 1, 2008)

TAXES

Economic Stimulus Act of 2008

This act prohibits DSS, to the extent permitted by federal law, from counting a tax refund received under the federal Economic Stimulus Act of 2008 (P. L. 110-185) as income or resources when determining eligibility for, or amounts of services and benefits under, any DSS-operated need-based program. This prohibition applies to the month the tax refund is received and the following two months.

(**PA 08-68**, effective upon passage)

Homecare Option Program for the Elderly

The Homecare Option Program for the Elderly (HOPE) allows participants to establish individual savings accounts in a state-administered trust fund. It allows an account's designated beneficiary to withdraw funds for qualified home care expenses that (1) are either not covered by a long-term health insurance policy or supplement services covered by such a policy or Medicare and (2) will allow them to remain in their homes or live in a non-institutional setting as

they age. HOPE is administered by the state comptroller.

This act exempts dividends and capital gains earned on contributions to an account in HOPE from the designated account beneficiary's state income tax. Interest earned on such contributions is already exempt. It expands the specified people who can benefit from a HOPE account to include any designated beneficiary. Under prior law, only a person who enters the HOPE participation agreement or who is later designated as that person's spouse or civil union partner could benefit.

(HB 5845, effective July 1, 2008. The tax exemption applies to tax years starting on or after January 1, 2008.)

ND:tjo