



Senate

General Assembly

File No. 390

February Session, 2000

Substitute Senate Bill No. 451

Senate, April 3, 2000

The Committee on Public Health reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

An Act Concerning Discontinued Nursing Home Beds And Certificates Of Need, And Long-Term Care Facility Relocation Plans.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-352 of the general statutes is amended by
2 adding subsection (g) as follows:

3 (NEW) (g) In the event that any facility ceases to operate, title to
4 such facility's certificates of need shall revert to the Department of
5 Social Services.

6 Sec. 2. Section 17b-403 of the general statutes, as amended by section
7 4 of public act 99-176, is repealed and the following is substituted in
8 lieu thereof:

9 (a) The State Ombudsman shall establish and operate ombudsman
10 programs in this state pursuant to Sections 711 to 713, inclusive, of the
11 federal Older Americans Act of 1965, as amended from time to time.

12 (b) The State Ombudsman shall serve on a full-time basis, and shall
13 personally or through representatives of the office:

14 (1) Identify, investigate and resolve complaints that:

15 (A) Are made by, or on behalf of, residents or, as to complaints
16 involving the application for admission to a long-term care facility, by
17 or on behalf of applicants; and

18 (B) Relate to action, inaction or decisions that may adversely affect
19 the health, safety, welfare or rights of the residents, including the
20 welfare and rights of the residents with respect to the appointment and
21 activities of guardians and representative payees, of (i) providers or
22 representatives of providers of long-term care services, (ii) public
23 agencies, or (iii) health and social service agencies;

24 (2) Provide services to protect the health, safety, welfare and rights
25 of the residents;

26 (3) Inform the residents about means of obtaining services provided
27 by providers or agencies described in subparagraph (B) of subdivision
28 (1) of this subsection or services described in subdivision (2) of this
29 subsection;

30 (4) Ensure that the residents and, as to issues involving applications
31 for admission to long-term care facilities, applicants have regular and
32 timely access to the services provided through the office and that the
33 residents and complainants receive timely responses from
34 representatives of the office to complaints;

35 (5) Represent the interests of the residents, and of applicants in
36 relation to issues concerning applications to long-term care facilities,
37 before governmental agencies and seek administrative, legal and other
38 remedies to protect the health, safety, welfare and rights of the
39 residents;

40 (6) Provide administrative and technical assistance to
41 representatives to assist the representatives in participating in the
42 program;

43 (7) (A) Analyze, comment on and monitor the development and
44 implementation of federal, state and local laws, regulations, and other
45 governmental policies and actions that pertain to the health, safety,
46 welfare and rights of the residents with respect to the adequacy of
47 long-term care facilities and services in this state and to the rights of
48 applicants in relation to applications to long-term care facilities;

49 (B) Recommend any changes in such laws, regulations, policies and
50 actions as the office determines to be appropriate; and

51 (C) Facilitate public comment on the laws, regulations, policies and
52 actions;

53 (8) Advocate for:

54 (A) Any changes in federal, state and local laws, regulations and
55 other governmental policies and actions that pertain to the health,
56 safety, welfare and rights of residents with respect to the adequacy of
57 long-term care facilities and services in this state and to the health,
58 safety, welfare and rights of applicants which the State Ombudsman
59 determines to be appropriate;

60 (B) Appropriate action by groups or agencies with jurisdictional
61 authority to deal with problems affecting individual residents and the
62 general resident population and applicants in relation to issues
63 concerning applications to long-term care facilities; and

64 (C) The enactment of legislative recommendations by the General
65 Assembly and of regulatory recommendations by commissioners of
66 Connecticut state agencies;

67 (9) (A) Provide for training representatives of the office;

68 (B) Promote the development of citizen organizations to participate
69 in the program; and

70 (C) Provide technical support for the development of resident and
71 family councils to protect the well-being and rights of residents;

72 (10) Coordinate ombudsman services with the protection and
73 advocacy systems for individuals with developmental disabilities and
74 mental illnesses established under (A) Part A of the Development
75 Disabilities Assistance and Bill of Rights Act (42 USC 6001, et seq.), and
76 (B) The Protection and Advocacy for Mentally Ill Individuals Act of
77 1986 (42 USC 10801 et seq.);

78 (11) Coordinate, to the greatest extent possible, ombudsman services
79 with legal assistance provided under Section 306(a)(2)(C) of the federal
80 Older Americans Act of 1965, (42 USC 3026(a)(2)(C)) as amended from
81 time to time, through the adoption of memoranda of understanding
82 and other means;

83 (12) Provide services described in subdivisions (1) to (11), inclusive,
84 of this subsection, to residents under age sixty living in a long-term
85 care facility, if (A) a majority of the residents of the facility where the
86 younger person resides are over age sixty and (B) such services do not
87 weaken or decrease service to older individuals covered under this
88 chapter; [and]

89 (13) Establish guidelines for relocation plans required in the case of
90 long-term care facility closures, provided such guidelines shall be set
91 forth in regulations adopted pursuant to section 17b-411, as amended;
92 and

93 ~~[(13)]~~ (14) Carry out such other activities and duties as may be
94 required under federal law.

95 Sec. 3. Subsection (a) of section 19a-545 of the general statutes is
96 repealed and the following is substituted in lieu thereof:

97 (a) A receiver appointed pursuant to the provisions of sections 19a-
98 541 to 19a-549, inclusive, in operating such facility, shall have the same
99 powers as a receiver of a corporation under section 52-507, except as
100 provided in subsection (b) of this section and shall exercise such
101 powers to remedy the conditions which constituted grounds for the
102 imposition of receivership, assure adequate health care for the patients
103 and preserve the assets and property of the owner. If a facility is
104 placed in receivership it shall be the duty of the receiver to notify
105 patients and family, except where medically contraindicated. Such
106 receiver may correct or eliminate any deficiency in the structure or
107 furnishings of the facility which endangers the safety or health of the
108 residents while they remain in the facility, provided the total cost of
109 correction does not exceed three thousand dollars. The court may
110 order expenditures for this purpose in excess of three thousand dollars
111 on application from such receiver. If any resident is transferred or
112 discharged such receiver shall provide for: (1) Transportation of the
113 resident and such resident's belongings and medical records to the
114 place where such resident is being transferred or discharged; (2) aid in
115 locating an alternative placement and discharge planning in
116 accordance with section 19a-535, as amended; (3) preparation for
117 transfer to mitigate transfer trauma, including but not limited to,
118 participation by the resident or the resident's guardian in the selection
119 of the resident's alternative placement, explanation of alternative
120 placements and orientation concerning the placement chosen by the
121 resident or the resident's guardian; and (4) custodial care of all
122 property or assets of residents which are in the possession of an owner
123 of the facility. The receiver shall preserve all property, assets and
124 records of residents which the receiver has custody of and shall
125 provide for the prompt transfer of the property, assets and records to
126 the alternative placement of any transferred resident. In no event may
127 the receiver transfer all residents and close a facility without a court
128 order and without preparing and receiving court approval for a
129 relocation plan for all residents and a discharge plan for each resident

130 in accordance with section 19a-535, as amended. The relocation plan
131 shall conform to the guidelines established by the State Ombudsman
132 pursuant to subsection (b) of section 17b-403, as amended by this act.

133 Sec. 4. This act shall take effect from its passage.

AGE Committee Vote: Yea 11 Nay 0 JF C/R PH

PH Committee Vote: Yea 15 Nay 8 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: See Explanation Below

Affected Agencies: Department of Social Services

Municipal Impact: None

Explanation

State Impact:

Section 1 of this bill specifies that when a long-term care facility ceases to operate, title to its certificate of need (CON) reverts back to the Department of Social Services (DSS). DSS currently has the authority to relocate Medicaid certified nursing home beds from one licensed facility to another licensed facility provided that there is no increase in Medicaid expenditures and the availability of beds in the area of need is not adversely affected. There is currently a moratorium on new nursing home beds, which has resulted in adding value to existing beds if they can be transferred. DSS has the authority to allow facility owners to sell beds if they meet the agency's requirements. The provision in this bill that requires all titles to certificates of need to revert back to the department appears to limit DSS's authority to allow the transfer of beds between facilities. DSS has used this authority to assist in the closing of financially troubled nursing homes by allowing owners to negotiate the sale of beds from one facility to another.

There are currently thirty-six nursing homes either in bankruptcy or

operating under state receivership. Moving beds from one facility to another is a tool used by the department to negotiate the sale of a home and provide continuity of service for nursing home residents. Limiting the department's ability to move homes from bankruptcy or state receivership may result in increased administrative costs relative to the oversight of institutions in financial difficulty. In addition, limiting the transfer of beds may also reduce the current capacity of 32,000 beds that serve nursing home clients. Given the current moratorium on new beds, which will expire in July 1, 2002, there will be a decline in the number of beds available if there are further facility closures. There is a potential savings to the Medicaid program if there is a reduction in nursing home beds and clients are served by less costly services.

Sections 2 and 3 of this bill require the State Ombudsman to develop guidelines for relocation plans when a long-term care facility closes. Any relocation plan proffered by the receiver for such a facility must adhere to these guidelines. The State Ombudsman can develop these guidelines within available resources. As these guidelines may prolong the operation of nursing facilities under receivership, there may be increased costs to the Medicaid program.

OLR Bill Analysis

sSB 451

AN ACT CONCERNING DISCONTINUED NURSING HOME BEDS AND CERTIFICATES OF NEED.**SUMMARY:**

When a nursing home, rest home, residential care home, or intermediate care facility for the mentally retarded ceases to operate, this bill requires title to its certificates of need (CONs) to revert to the Department of Social Services (DSS). It requires the state long-term care ombudsman to establish guidelines for relocation plans required when nursing homes and residential care homes close and to set them out in regulations.

The bill also requires a receiver appointed for a nursing home or residential care home that is about to close to obtain court approval for residents' relocation plans, which must conform to the ombudsman's guidelines.

EFFECTIVE DATE: Upon passage

BACKGROUND***Certificates of Need and Nursing Home Moratorium***

The facilities identified above must apply to DSS when they first open for a CON, which is a formal determination by the department that the facility, new beds, new services, certain capital improvements, or equipment purchases are needed. Currently, there is a moratorium on the building of new nursing homes or adding new beds, with some minor exceptions, until July 1, 2002. But nursing homes that go out of business can still transfer their certificates of need for their beds to other facilities as long as the total number of beds in the state is not increased.

COMMITTEE ACTION

Select Committee on Aging

Joint Favorable Change of Reference

Yea 11 Nay 0

Public Health Committee

Joint Favorable Substitute

Yea 15 Nay 8