



***An Act Concerning Certification And Background Checks For Home Health Aides And Background Checks For Emergency Medical Technicians, For Certain Caregivers And For Nursing Home Employment.***

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

- 1 Section 1. (NEW) As used in sections 1 to 3, inclusive, of this act:
- 2 (1) "Commissioner" means the Commissioner of Public Health;
- 3 (2) "Department" means the Department of Public Health;
- 4 (3) "Home health aide" means a person employed by a home health  
5 care agency or a homemaker-home health aide agency, as defined  
6 respectively in section 19a-490 of the general statutes, as amended by  
7 this act, who has direct contact with the patients to whom such  
8 agencies provide service, but does not include (A) health care  
9 providers licensed, certified or registered by the state, or (B) persons,  
10 hired directly by the patient, including, but not limited to, personal  
11 care assistants; and
- 12 (4) "Certified home health aide" means a home health aide who has  
13 been issued a certification pursuant to section 3 of this act.
- 14 Sec. 2. (NEW) (a) Except as provided in subsection (b) of this  
15 section, no home health care agency or homemaker-home health aide

16 agency, as defined respectively in section 19a-490 of the general  
17 statutes, as amended by this act, may employ a person as a home  
18 health aide, unless: (1) The aide is a certified home health aide; and (2)  
19 the agency obtains a state criminal history records check on the home  
20 health aide that has been conducted within six months of the date of  
21 hire. If the department does not have available a state criminal history  
22 records check that has been conducted within such time period, the  
23 agency may conduct its own state criminal history records check and  
24 may charge the cost of doing so to the home health aide. If the agency  
25 conducts such check, it shall file a copy of the results of such check  
26 with the department.

27 (b) Notwithstanding the requirements of subsection (a) of this  
28 section, a home health care agency or homemaker-home health aide  
29 agency may employ a person to perform the duties of a home health  
30 aide provided: (1) The agency has requested a state criminal history  
31 records check from the department or has commenced its own state  
32 criminal history records check on the person; (2) the person is applying  
33 or has applied to become a certified home health aide; and (3) the  
34 person performs home health aide duties only under the direct  
35 supervision of a nurse licensed under chapter 378 of the general  
36 statutes pending certification and the results of the criminal history  
37 records check.

38 (c) Each home health care agency or homemaker-home health aide  
39 agency shall report in writing to the department and to local law  
40 enforcement officials any allegation or evidence of abuse, neglect or  
41 misappropriation of a patient's funds or property by any employee of  
42 the agency. The agency shall make such report not later than seventy-  
43 two hours after obtaining knowledge of the incident. The report shall  
44 not be subject to disclosure under the Freedom of Information Act, as  
45 defined in section 1-200 of the general statutes, and the report shall not  
46 contain the name of the patient unless the patient requests such  
47 disclosure. No person making a report in good faith under this  
48 subsection shall be liable in any civil action for damages brought by  
49 the employee. Compliance with this subsection shall not relieve any

50 person from the duty to comply with the reporting requirements of  
51 chapter 319dd of the general statutes concerning protection of the  
52 elderly, chapter 319a of the general statutes concerning child welfare,  
53 chapter 813 of the general statutes concerning protection and advocacy  
54 of persons with disabilities, or any other reporting requirements of the  
55 general statutes.

56 Sec. 3. (NEW) (a) No person may use the title "certified home health  
57 aide" or make use of any title, words, letters or abbreviations that may  
58 reasonably be confused with certification as a home health aide unless  
59 certified under this section.

60 (b) The department shall establish and maintain a procedure for the  
61 certification of home health aides. If an applicant for certification as a  
62 home health aide has provided or submitted to a criminal history  
63 records check, the results shall not be subject to disclosure under the  
64 Freedom of Information Act, as defined in section 1-200 of the general  
65 statutes, provided the applicant may authorize release of the criminal  
66 history records check.

67 (c) The department shall issue a certification as a home health aide  
68 to any person who successfully completes home health aide training, a  
69 competency test and an evaluation program approved by the  
70 department. The training, competency testing and evaluation may be  
71 conducted by a home health care agency, a homemaker-home health  
72 aide agency or other entity that the department approves for such  
73 training, competency testing and evaluation. An applicant for  
74 certification as a home health aide need not be employed by a home  
75 health care agency, a homemaker-home health aide agency or other  
76 such entity in order to qualify for such certification.

77 (d) Application for certification as a home health aide shall be on  
78 forms prescribed by the department. The form shall require the  
79 applicant's Social Security number.

80 (e) The application fee for initial certification under this section shall  
81 be twenty-five dollars. A certification may be renewed pursuant to

82 section 19a-88 of the general statutes, as amended by this act, for a fee  
83 of twenty-five dollars.

84 (f) The department may adopt regulations, in accordance with  
85 chapter 54 of the general statutes, to implement the provisions of  
86 sections 1 to 3, inclusive, of this act.

87 (g) The department may take any action set forth in section 19a-17 of  
88 the general statutes if a certified home health aide fails to conform to  
89 the accepted standards of the home health aide profession, including,  
90 but not limited to, the following: (1) Conviction of a felony; (2) fraud or  
91 deceit in professional practice; (3) illegal conduct; (4) negligent,  
92 incompetent or wrongful conduct in professional activities; (5)  
93 emotional disorder or mental illness; (6) physical illness including, but  
94 not limited to, deterioration through the aging process; (7) abuse or  
95 excessive use of drugs, including alcohol, narcotics or chemicals; (8)  
96 wilful falsification of entries in any client or patient record; (9)  
97 misrepresentation or concealment of a material fact in the obtaining or  
98 reinstatement of a home health aide certificate; or (10) violation of any  
99 provision of this section or section 2 of this act. The commissioner may  
100 order a certified home health aide to submit to a reasonable physical or  
101 mental examination if such home health aide's physical or mental  
102 capacity to practice safely is the subject of an investigation. The  
103 commissioner may petition the superior court for the judicial district of  
104 Hartford to enforce such order or any action taken pursuant to section  
105 19a-17 of the general statutes. Notice of any contemplated action under  
106 section 19a-17 of the general statutes, the cause of the action and the  
107 date of a hearing on the action shall be given and an opportunity for  
108 hearing afforded in accordance with the provisions of chapter 54 of the  
109 general statutes.

110 Sec. 4. (NEW) (a) As used in this section, "caregiver" means any  
111 individual whose employment or contractual service with any agency  
112 includes providing direct care services or having routine physical  
113 access to clients of the agency or having routine access to the financial  
114 records or assets of such clients, but does not include a home health

115 aide, as defined in section 1 of this act.

116 (b) The Commissioner of Public Health shall conduct a state  
117 criminal history records check of any caregiver who may be employed  
118 or otherwise engaged by any agency to provide direct care services,  
119 including, but not limited to, respite care, to clients of such agency  
120 having physical or mental disabilities. The commissioner shall conduct  
121 such criminal history records check, prior to or within six months of  
122 such caregiver being so employed or engaged, upon the written  
123 request of any agency that intends to employ or otherwise engage such  
124 caregiver. The commissioner may charge a fee for requests made  
125 under this section that shall not exceed the actual cost of such criminal  
126 history records check. The provisions of this subsection shall not apply  
127 to (1) any caregiver who is licensed, certified or registered by the state  
128 and is acting within the scope of the caregiver's license, certificate or  
129 registration in providing such direct care services, or (2) any caregiver  
130 who is required to submit to a state or federal criminal history records  
131 check under any other provision of the general statutes in order to  
132 provide such direct care services.

133 (c) If the caregiver has provided or submitted to a criminal history  
134 records check, the results shall not be subject to disclosure under the  
135 Freedom of Information Act, as defined in section 1-200 of the general  
136 statutes, provided the caregiver may authorize release of the criminal  
137 history records check.

138 (d) The commissioner may adopt regulations, in accordance with  
139 chapter 54 of the general statutes, to carry out the provisions of this  
140 section.

141 (e) The Division of State Police, within the Department of Public  
142 Safety, shall assist the commissioner in conducting a state criminal  
143 history records check of any caregiver under subsection (b) of this  
144 section, shall arrange for the fingerprinting of such caregiver and shall  
145 forward such fingerprints to the State Police Bureau of Identification  
146 for completion of such state criminal history records check.

147 Sec. 5. Subsection (c) of section 19a-14 of the general statutes, as  
148 amended by section 2 of public act 99-249 and section 60 of public act  
149 99-2 of the June special session, is repealed and the following is  
150 substituted in lieu thereof:

151 (c) No board shall exist for the following professions that are  
152 licensed or otherwise regulated by the Department of Public Health:

- 153 (1) Speech pathologist and audiologist;
- 154 (2) Hearing aid dealer;
- 155 (3) Nursing home administrator;
- 156 (4) Sanitarian;
- 157 (5) Subsurface sewage system installer or cleaner;
- 158 (6) Marital and family therapist;
- 159 (7) Nurse-midwife;
- 160 (8) Licensed clinical social worker;
- 161 (9) Respiratory care practitioner;
- 162 (10) Asbestos contractor and asbestos consultant;
- 163 (11) Massage therapist;
- 164 (12) Registered nurse's aide;
- 165 (13) Radiographer;
- 166 (14) Dental hygienist;
- 167 (15) Dietitian-Nutritionist;
- 168 (16) Asbestos abatement worker;
- 169 (17) Asbestos abatement site supervisor;

170 (18) Licensed or certified alcohol and drug counselor;

171 (19) Professional counselor;

172 (20) Acupuncturist;

173 (21) Occupational therapist;

174 (22) Lead abatement contractor; [and]

175 (23) Nail technician; and

176 (24) Certified home health aide.

177 The department shall assume all powers and duties normally vested  
178 with a board in administering regulatory jurisdiction over said  
179 professions. The uniform provisions of this chapter and chapters 368v,  
180 369 to 381a, inclusive, 383 to 388, inclusive, 393a, 395, 398, 399, 400a  
181 and 400c, including, but not limited to, standards for entry and  
182 renewal; grounds for professional discipline; receiving and processing  
183 complaints; and disciplinary sanctions, shall apply, except as otherwise  
184 provided by law, to the professions listed in this subsection.

185 Sec. 6. Subsection (e) of section 19a-88 of the general statutes, as  
186 amended by section 61 of public act 99-2 of the June special session, is  
187 repealed and the following is substituted in lieu thereof:

188 (e) Each person holding a license or certificate issued under section  
189 3 of this act, section 19a-514, 20-74s, as amended, 20-195cc or 20-206ll  
190 and chapters 370 to 373, inclusive, 375, 378 to 381a, inclusive, 383 to  
191 388, inclusive, 393a, 395, 398, 399 or 400a and section 20-206n, 20-206o  
192 or section 56 of [this act] public act 99-2 of the June special session  
193 shall, annually, during the month of [the applicant's] such person's  
194 birth, apply for renewal of such license or certificate to the Department  
195 of Public Health, giving [the applicant's] such person's name in full,  
196 [the applicant's] such person's residence and business address and  
197 such other information as the department requests. Each person  
198 holding a license or certificate issued pursuant to section 20-475 or 20-

199 476 shall, annually, during the month of [the applicant's] such person's  
200 birth, apply for renewal of such license or certificate to the department.  
201 Each entity holding a license issued pursuant to section 20-475 shall,  
202 annually, during the anniversary month of initial licensure, apply for  
203 renewal of such license or certificate to the department.

204 Sec. 7. Section 19a-179 of the general statutes is repealed and the  
205 following is substituted in lieu thereof:

206 The Commissioner of Public Health shall adopt regulations  
207 concerning the methods and conditions for licensure and certification  
208 of the operations, facilities and equipment enumerated in section 19a-  
209 177 and regulations regarding complaint procedures for the public and  
210 any emergency medical service organization. Such regulations shall be  
211 adopted in accordance with the provisions of chapter 54 and shall be in  
212 conformity with the policies and standards established by the  
213 commissioner. Such regulations shall (1) establish qualifications for  
214 persons to obtain and maintain certification as emergency medical  
215 technicians, and (2) require that any person submitting an application  
216 for such certification on or after October 1, 2000, shall submit to state  
217 and national criminal history records checks.

218 Sec. 8. Subdivision (d) of section 19a-490 of the general statutes is  
219 repealed and the following is substituted in lieu thereof:

220 (d) "Home health care agency" means a public or private  
221 organization, or a subdivision thereof, engaged in providing  
222 professional nursing services and the following services, available  
223 twenty-four hours per day, in the patient's home or a substantially  
224 equivalent environment: [Homemaker-home] Home health aide  
225 services, [as defined in this section,] physical therapy, speech therapy,  
226 occupational therapy or medical social services. The agency shall  
227 provide professional nursing services and at least one additional  
228 service directly and all others directly or through contract. An agency  
229 shall be available to enroll new patients seven days a week, twenty-  
230 four hours per day.

231 Sec. 9. Subdivision (f) of section 19a-490 of the general statutes is  
232 repealed and the following is substituted in lieu thereof:

233 [(f) "Homemaker-home health aide services" as defined in this  
234 section] (f) "Home health aide services" shall not include services  
235 provided to assist individuals with activities of daily living when such  
236 individuals have a disease or condition that is chronic and stable as  
237 determined by a physician licensed in the state of Connecticut.

238 Sec. 10. Subsection (c) of section 19a-491 of the general statutes is  
239 repealed and the following is substituted in lieu thereof:

240 (c) For purposes of this chapter, an institution shall include any  
241 person or public or private agency which either advertises, arranges  
242 for or provides [a homemaker health aide or homemaker-home] home  
243 health aide services in a patient's home or a substantially equivalent  
244 environment.

245 Sec. 11. Subsection (e) of section 19a-491 of the general statutes is  
246 repealed and the following is substituted in lieu thereof:

247 (e) The commissioner may require as a condition of the licensure of  
248 home health care agencies and homemaker-home health aide agencies  
249 that each agency meet minimum service quality standards. In the  
250 event the commissioner requires such agencies to meet minimum  
251 service quality standards as a condition of their licensure, [he] the  
252 commissioner shall adopt regulations<sub>2</sub> in accordance with the  
253 provisions of chapter 54<sub>2</sub> to define such minimum service quality  
254 standards, which shall allow for training of [homemaker-home health  
255 care] home health aides by adult continuing education.

256 Sec. 12. Section 19a-491b of the general statutes is repealed and the  
257 following is substituted in lieu thereof:

258 (a) Any person who is licensed to establish, conduct, operate or  
259 maintain a nursing home shall notify the Commissioner of Public  
260 Health immediately if the owner, conductor, operator or maintainer of

261 the home, any person described in subdivision (3) of subsection (a) of  
262 section 19a-491a, or any nurse or nurse's aide has been convicted of (1)  
263 a felony, as defined in section 53a-25, (2) cruelty to persons under  
264 section 53-20, or (3) assault of a victim sixty or older under section 53a-  
265 61a, as amended; or has been subject to any decision imposing  
266 disciplinary action by the licensing agency in this or any other state [,  
267 the District of Columbia, a United States possession or territory or a  
268 foreign] or any other jurisdiction. Failure to comply with the  
269 notification requirement of this subsection shall subject the licensed  
270 person to a civil penalty of not more than one hundred dollars.

271 (b) Each nursing home shall require a person described in  
272 subdivision (3) of subsection (a) of section 19a-491a or a nurse or  
273 nurse's aide to complete and sign an application form which contains  
274 questions as to whether the person has been convicted of any crime  
275 specified in subsection (a) of this section or has been subject to any  
276 decision imposing disciplinary action as described in said subsection.  
277 Any person seeking employment in a position connected with the  
278 provision of care in a nursing home who makes a false written  
279 statement regarding such prior criminal convictions or disciplinary  
280 action shall be guilty of a Class A misdemeanor.

281 (c) On and after October 1, 2000, no nursing home may hire any  
282 person for a position as a nurse's aide unless the nursing home obtains  
283 a state criminal history records check on such person that has been  
284 conducted within twenty-four months of the date of hire. The  
285 Department of Public Health shall supply the nursing home with such  
286 state criminal history records check. If the department does not have  
287 available, in the registry of nurse's aides established under section 20-  
288 102bb, a state criminal history records check that has been conducted  
289 within such time period, the department shall conduct a state criminal  
290 history records check on such person.

291 (d) Notwithstanding the requirements of subsection (c) of this  
292 section, a nursing home may employ a person to perform the duties of  
293 a nurse's aide subject to the condition of obtaining a state criminal

294 history records check on such person, provided the nursing home has  
295 requested a state criminal history records check on such person from  
296 the department or has commenced its own state criminal history  
297 records check on such person.

298 (e) No nursing home may disclose or use any criminal history  
299 background information acquired under this section for any purpose  
300 except a determination of employment. A violation of this subsection  
301 shall be deemed an unfair or deceptive trade practice under subsection  
302 (a) of section 42-110b. Any nursing home that, in good faith, fails to  
303 employ or discharges any conditionally employed person based upon  
304 information contained in a state criminal history records check  
305 obtained pursuant to this section shall be immune from civil and  
306 criminal liability that might otherwise be incurred or imposed based  
307 on the refusal to hire or discharge.

308 ~~[(c)]~~ (f) (1) The Division of State Police, within the Department of  
309 Public Safety, shall assist the Department of Public Health in  
310 conducting criminal background investigations of persons described in  
311 subdivision (1) of subsection (a) of section 19a-491a.

312 (2) The Division of State Police, within the Department of Public  
313 Safety, shall assist any nursing home in conducting a state criminal  
314 history records check of any person under final consideration for  
315 employment by such nursing home as a nurse's aide, shall arrange for  
316 the fingerprinting of such person and shall forward such fingerprints  
317 to the State Police Bureau of Identification for completion of such state  
318 criminal history records check.

**PH Committee Vote:** Yea 25 Nay 0 JFS