



General Assembly

January Session, 2001

**Raised Bill No. 6740**

LCO No. 3789

Referred to Committee on Public Health

Introduced by:  
(PH)

**AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO CERTAIN PROVISIONS OF TITLES 17A AND 19A OF THE GENERAL STATUTES.**

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

1 Section 1. Subsection (b) of section 17a-211 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (b) Every two years, the department shall hold public hearings on a  
4 complete draft of the plan and, in January, 1992, and every two years  
5 thereafter, the department shall submit the final plan and a transcript  
6 of the public hearings to the joint standing committees of the General  
7 Assembly having cognizance of matters relating to public health and  
8 appropriations and the budgets of [states] state agencies.

9 Sec. 2. Section 17a-216 of the general statutes is repealed and the  
10 following is substituted in lieu thereof:

11 The Department of Mental Retardation may, within [the limits of]  
12 available appropriations, purchase wheelchairs, placement equipment  
13 and clothing which is specifically designed for handicapped persons

14 directly and without the issuance of a purchase order, provided such  
15 purchases shall not be in excess of three thousand five hundred dollars  
16 per unit purchased. All such purchases shall be made in the open  
17 market, but shall, when possible, be based on at least three competitive  
18 bids. Such bids shall be solicited by sending notice to prospective  
19 suppliers and by posting notice on a public bulletin board within [said]  
20 the Department of Mental Retardation. Each bid shall be opened  
21 publicly at the time stated in the notice soliciting such bid. Acceptance  
22 of a bid by [said] the Department of Mental Retardation shall be based  
23 on standard specifications as may be adopted by [said] the  
24 department.

25 Sec. 3. Section 17a-217 of the general statutes is repealed and the  
26 following is substituted in lieu thereof:

27 (a) The Department of Mental Retardation shall develop day-care  
28 programs, day-camp programs and recreational programs for mentally  
29 retarded children and adults. Any nonprofit organization which  
30 establishes or maintains day-care programs, day-camp programs or  
31 recreational programs for mentally retarded children or adults may  
32 apply to the Department of Mental Retardation for funds to be used to  
33 assist in establishing, maintaining or expanding such programs. For  
34 the purposes of this section: (1) A day-care program (A) may provide  
35 for the care and training of preschool age children to enable them to  
36 achieve their maximum social, physical and emotional potential; (B)  
37 may provide mentally retarded adolescents and adults with an activity  
38 program which includes training in one or more of the following areas:  
39 Self-care, activities of daily living, personal and social adjustment,  
40 work habits and skills, speech and language development; (2) a day-  
41 camp program may provide mentally retarded children or adults with  
42 a supervised program of out-of-doors activities which may be  
43 conducted during all or part of the months of June, July, August and  
44 September; [ ] and (3) a recreational program may provide planned  
45 and supervised recreational activities for mentally retarded children or  
46 adults, which activities may be of a social, athletic or purely

47 diversionary nature and which programs shall be considered separate  
48 and apart from the day-camp program described in subdivision (2) of  
49 this subsection.

50 (b) No grant made under this section to assist in establishing,  
51 maintaining or expanding any [of the above programs under the  
52 provisions] program set forth in subsection (a) of this section shall  
53 exceed the ordinary and recurring annual operating expenses of such  
54 program, nor shall any grant be made to pay for all or any part of  
55 capital expenditures. The Department of Mental Retardation shall: (1)  
56 Define minimum requirements to be met by each program in order to  
57 be eligible to receive funds as provided for by this section in regard to  
58 qualification and number of staff members and program operation,  
59 including, but not limited to, physical plant and record keeping; (2)  
60 establish procedures to be used in making application for such funds;  
61 and [provide] (3) adopt regulations, in accordance with chapter 54,  
62 governing the granting of funds to assist in the establishment of day-  
63 care programs, day-camp programs and recreational programs for the  
64 mentally retarded. Upon receipt of proper application, the Department  
65 of Mental Retardation, within available appropriations, may grant  
66 such funds, provided the plans for financing and the standards of  
67 operation of such programs shall be approved by [said] the  
68 department in accordance with the provisions of this section. For the  
69 purpose of developing such programs, [said] the department may  
70 accept grants from the federal government, a municipality or any other  
71 source.

72 Sec. 4. Section 17a-219a of the general statutes is repealed and the  
73 following is substituted in lieu thereof:

74 For the purposes of this section and sections 17a-219b and 17a-219c,  
75 as amended by this act:

76 [(a)] (1) "Children with disabilities" means any child with a physical,  
77 emotional or mental impairment under the age of eighteen years who  
78 [(1)] (A) if under the age of five, has a severe disability and substantial

79 developmental delay, or a specific diagnosed condition with a high  
80 probability of resulting in a developmental delay, [or (2)] (B) has a  
81 moderate, severe or profound educational disability, or [(3)] (C)  
82 otherwise meets the definition of developmental disabilities in the  
83 federal Developmental Disabilities Act, Section 102(5), as codified in 24  
84 USC Section 6001(5).

85 [(b)] (2) "Family" means a child with a disability and [(1)] (A) one or  
86 more biological or adoptive parents, [or (2)] (B) one or more persons to  
87 whom legal custody has been given and in whose home the child  
88 resides, or [(3)] (C) other adult family members who reside with and  
89 have a primary responsibility for providing continuous care to a child  
90 with a disability.

91 [(c)] (3) "Family support services" means services, cash subsidies,  
92 and goods which enhance the ability of all children with disabilities to  
93 grow within their families, to reduce the emotional and financial costs  
94 to families who care at home for children with disabilities, and to assist  
95 families of children with disabilities to find the supports, services and  
96 assistance to lead lives in their communities.

97 Sec. 5. Subsection (a) of section 17a-219c of the general statutes is  
98 repealed and the following is substituted in lieu thereof:

99 (a) There is established a Family Support Council to assist the  
100 Department of Mental Retardation and other state agencies that  
101 administer or fund family support services to act in concert and,  
102 within available appropriations, to (1) establish a comprehensive,  
103 coordinated system of family support services, (2) use existing state  
104 and other resources efficiently and effectively as appropriate for such  
105 services, (3) identify and address, within available appropriations,  
106 services that are needed for families of children with disabilities, and  
107 (4) promote state-wide availability of such services. The council shall  
108 consist of twenty-seven voting members including the Commissioners  
109 of Public Health, Mental Retardation, Children and Families,  
110 Education [,] and Social Services, or their designees, the Child

111 Advocate, the executive director of the Office of Protection and  
112 Advocacy for Persons with Disabilities, the [chair] chairperson of the  
113 State Interagency Birth-to-Three Coordinating Council, as established  
114 pursuant to [sections 17a-248, 17a-248b to 17a-248g, inclusive, 38a-490a  
115 and 38a-516c] section 17a-248b, the executive director of the  
116 Commission on Children, and family members of, or individuals who  
117 advocate for, children with disabilities. The family members or  
118 individuals who advocate for children with disabilities shall comprise  
119 two-thirds of the council and shall be appointed as follows: Six by the  
120 Governor, three by the president pro tempore of the Senate, two by the  
121 majority leader of the Senate, one by the minority leader of the Senate,  
122 three by the speaker of the House of Representatives, two by the  
123 majority leader of the House of Representatives and one by the  
124 minority leader of the House of Representatives. The initial  
125 appointments to the council shall be made on or before September 1,  
126 1994. Members shall be appointed for a term of four years. Members  
127 shall be limited to two consecutive terms. The council shall meet at  
128 least quarterly and shall select its own chairperson. [The initial  
129 meeting of the council shall be convened before October 1, 1994.]  
130 Council members shall serve without compensation but shall be  
131 reimbursed for necessary expenses incurred. The costs of  
132 administering the council shall be within available appropriations in  
133 accordance with sections 17a-219a to 17a-219c, inclusive, as amended  
134 by this act.

135 Sec. 6. Section 17a-220 of the general statutes is repealed and the  
136 following is substituted in lieu thereof:

137 As used in this section and sections 17a-221 to 17a-225, inclusive:

138 [(a)] (1) "Borrower" means an organization which has received a  
139 loan pursuant to this section and sections 17a-221 to 17a-225, inclusive;

140 [(b)] (2) "Capital loan agreement" means an agreement, in the form  
141 of a written contract, between the department and the organization  
142 which sets forth the terms and conditions applicable to the awarding

143 of a community residential facility loan;

144 [(c)] (3) "Certification" or "certified" means certification by the  
145 Department of Public Health as an intermediate care facility for the  
146 mentally retarded pursuant to standards set forth in the rules and  
147 regulations published in Title 42, Part 442, Subpart G of the Code of  
148 Federal Regulations;

149 [(d)] (4) "Community-based" refers to those programs or facilities  
150 which are not located on the grounds of, or operated by, the  
151 department;

152 [(e)] (5) "Community residential facility" means a community-based  
153 residential facility which houses up to six mentally retarded or autistic  
154 persons and which provides food, shelter, personal guidance and, to  
155 the extent necessary, continuing health-related services and care for  
156 persons requiring assistance to live in the community, provided any  
157 such facilities in operation on July 1, 1985, which house more than six  
158 mentally retarded or autistic persons shall be eligible for loans for  
159 rehabilitation under this section and sections 17a-221 to 17a-225,  
160 inclusive. Such facility shall be licensed and may be certified;

161 [(f)] (6) "Community Residential Facility Revolving Loan Fund"  
162 means the loan fund established pursuant to section 17a-221;

163 [(g)] (7) "Default" means the failure of the borrower to observe or  
164 perform any covenant or condition under the capital loan agreement  
165 and includes the failure to meet any of the conditions specified in  
166 section 17a-223;

167 [(h)] (8) "Department" means the Department of Mental Retardation;

168 [(i)] (9) "Loan" means a community residential facilities loan which  
169 shall bear an interest rate to be determined in accordance with  
170 subsection (t) of section 3-20, but in no event in excess of six per cent  
171 per annum, and is made pursuant to the provisions of this section and  
172 sections 17a-221 to 17a-225, inclusive;

173 [(j)] (10) "Licensed" or "licensure" means licensure by the  
174 department pursuant to section 17a-227;

175 [(k)] (11) "Organization" means a private nonprofit corporation  
176 which is tax-exempt under Section 501(c)(3) of the Internal Revenue  
177 Code of 1986, or any subsequent corresponding internal revenue code  
178 of the United States, as from time to time amended, is qualified to do  
179 business in this state and is applying for a loan under the community  
180 residential facility revolving loan program;

181 [(l)] (12) "Rehabilitate" or "rehabilitation" means rehabilitation of a  
182 previously existing and operating community residential facility to  
183 meet physical plant requirements for licensure, certification or Fire  
184 Safety Code compliance or to make energy conservation  
185 improvements;

186 [(m)] (13) "Renovate" or "renovation" means renovation of a newly  
187 acquired residential facility to meet physical plant requirements for  
188 licensure, certification or Fire Safety Code compliance or to make  
189 energy conservation improvements;

190 [(n)] (14) "Total property development cost" means the cost of  
191 property acquisition, construction, renovation or rehabilitation and  
192 related development costs which may be capitalized under generally  
193 accepted accounting principles, including furnishings and equipment,  
194 provided in no case may the total property development cost of a  
195 residential facility financed pursuant to this section and sections 17a-  
196 221 to 17a-225, inclusive, exceed the total residential development  
197 amount approved by the Department of Social Services in accordance  
198 with sections 17a-228 and 17b-244, and the regulations adopted  
199 thereunder; and

200 [(o)] (15) "Capital repairs and improvements" means major repairs  
201 and improvements to an existing community residential facility to  
202 maintain the physical plant and property of such facility, which repairs  
203 and improvements are reimbursable under the room and board rates

204 established by the Department of Social Services in accordance with  
205 section 17b-244 and may be capitalized in accordance with generally  
206 accepted accounting principles.

207 Sec. 7. Section 17a-231 of the general statutes is repealed and the  
208 following is substituted in lieu thereof:

209 [The following words and phrases, as] As used in this section and  
210 sections 17a-232 to 17a-237, inclusive, [shall have the following  
211 meanings,] unless the context otherwise requires:

212 [(a)] (1) "Residential facility for mentally retarded persons" means a  
213 residential facility for [the mentally retarded] persons with mental  
214 retardation that is licensed, or required to be licensed, pursuant to  
215 section 17a-227;

216 [(b)] (2) "Emergency" means a situation, physical condition or one or  
217 more practices, methods or operations which present imminent danger  
218 of death or serious physical or mental harm to residents of [such] a  
219 residential facility for mentally retarded persons;

220 [(c)] (3) "Transfer trauma" means the medical and psychological  
221 reactions to physical transfer that increase the risk of death, or grave  
222 illness, or both, in [mentally retarded] persons with mental retardation;

223 [(d)] (4) "Substantial violation" means a violation of regulations  
224 [established] adopted pursuant to section 17a-227 which presents a  
225 reasonable likelihood of serious physical or mental harm to residents  
226 of [such] a residential facility for mentally retarded persons; and

227 [(e)] (5) "Habitual violation" means a violation of regulations  
228 [established] adopted pursuant to section 17a-227 which, due to its  
229 repetition, presents a reasonable likelihood of serious physical or  
230 mental harm to residents of [such] a residential facility for mentally  
231 retarded persons.

232 Sec. 8. Section 17a-238 of the general statutes is repealed and the

233 following is substituted in lieu thereof:

234 (a) No person placed or treated under the direction of the  
235 Commissioner of Mental Retardation in any public or private facility  
236 shall be deprived of any personal, property or civil rights, except in  
237 accordance with due process of law.

238 (b) Each person placed or treated under the direction of the  
239 Commissioner of Mental Retardation in any public or private facility  
240 shall be protected from harm and receive humane and dignified  
241 treatment which is adequate for [his] such person's needs and for [his]  
242 the development [to his] of such person's full potential at all times,  
243 with full respect for [his] such person's personal dignity and right to  
244 privacy consistent with [his] such person's treatment plan as  
245 determined by the commissioner. No treatment plan or course of  
246 treatment for any person placed or treated under the direction of the  
247 commissioner shall include the use of an aversive device which has not  
248 been tested for safety and efficacy and approved by the federal Food  
249 and Drug Administration except for any treatment plan or course of  
250 treatment including the use of such devices which was initiated prior  
251 to October 1, 1993. No treatment plan or course of treatment prescribed  
252 for any person placed or treated under the direction of the  
253 commissioner shall include the use of aversive procedures except in  
254 accordance with procedures established by the Commissioner of  
255 Mental Retardation. For purposes of this subsection, "aversive  
256 procedure" means the contingent use of an event which may be  
257 unpleasant, noxious or otherwise cause discomfort to alter the  
258 occurrence of a specific behavior or to protect an individual from  
259 injuring himself or herself or others and may include the use of  
260 physical isolation and mechanical and physical restraint. Nothing in  
261 this subsection shall prohibit persons who are not placed or treated  
262 under the direction of the Commissioner of Mental Retardation from  
263 independently pursuing and obtaining any treatment plan or course of  
264 treatment as may otherwise be authorized by law. The commissioner  
265 shall adopt regulations, in accordance with chapter 54, to carry out the

266 provisions of this subsection.

267 (c) The Commissioner of Mental Retardation shall adopt  
268 regulations, in accordance with the provisions of [sections 4-166 to 4-  
269 176, inclusive] chapter 54, with respect to each facility or institution  
270 under [his] the jurisdiction of the commissioner, with regard to the  
271 following: (1) Prohibiting the use of corporal punishment; (2) when  
272 and by whom therapies may be used; (3) which therapies may be used;  
273 and (4) when a person may be placed in restraint or seclusion or when  
274 force may be used upon a person.

275 (d) A copy of any order prescribing the use of therapy, restraint or  
276 seclusion in accordance with the regulations adopted [in] under  
277 subsection (c) of this section shall be made a part of the person's  
278 permanent clinical record together with the reasons for each such  
279 order and made available in compliance with existing statutes relating  
280 to the right to know.

281 (e) The Commissioner of Mental Retardation shall ensure that each  
282 person placed or treated under [his] the commissioner's direction in  
283 any public or private facility is afforded the following rights and  
284 privileges: (1) The right to prompt, sufficient and appropriate medical  
285 and dental treatment; (2) the right to communicate freely and privately  
286 with any person, including, but not limited to, an attorney or other  
287 legal representative of [his] the person's choosing; (3) the right to  
288 reasonable access to a telephone, both to make and receive calls in  
289 private, unless such access is used in violation of any federal or state  
290 statute; (4) the right to send and receive unopened mail and to make  
291 reasonable requests for assistance in the preparation of  
292 correspondence; (5) the safety of each person's personal effects shall be  
293 assured including the provision of reasonably accessible individual  
294 storage space; (6) the right to be free from unnecessary or excessive  
295 physical restraint; (7) the right to voice grievances without  
296 interference; (8) the right to a nourishing and well-balanced diet; (9)  
297 the right to be employed outside a facility and to receive assistance in

298 his or her efforts to secure suitable employment. The department shall  
299 encourage the employment of such persons and shall promote the  
300 training of such persons for gainful employment, and all benefits of  
301 such employment shall accrue solely to the person employed; (10) the  
302 right to have the complete record maintained by the Department of  
303 Mental Retardation concerning such person released for review,  
304 inspection and copying to such person's attorney or other legal  
305 representative notwithstanding any provisions of subsection (g) of  
306 section 4-193 or section 4-194; and (11) the right to receive or purchase  
307 his or her own clothing and personal effects, including toilet articles,  
308 and the right to wear such clothing and use such personal effects  
309 except where determined to be dangerous to the health or safety of the  
310 individual or others.

311 (f) The Commissioner of Mental Retardation shall require the  
312 attending physician of any person placed or treated under [his] the  
313 direction of the commissioner to obtain informed written consent from  
314 the following persons prior to authorizing any surgical procedure or  
315 any medical treatment, excluding routine medical treatment which is  
316 necessary to maintain the general health of a resident or to prevent the  
317 spread of any communicable disease: (1) The resident if [he] such  
318 resident is eighteen years of age or over or is legally emancipated and  
319 competent to give such consent; (2) the parent of a resident under  
320 eighteen years of age who is not legally emancipated; or (3) the legal  
321 guardian or conservator of a resident of any age who is adjudicated  
322 unable to make informed decisions about matters relating to [his] such  
323 resident's medical care. The person whose consent is required shall be  
324 informed of the nature and consequences of the particular treatment or  
325 surgical procedure, the reasonable risks, benefits and purpose of such  
326 treatment or surgical procedure and any alternative treatment or  
327 surgical procedures which are available. The consent of any resident or  
328 of any parent, guardian or conservator of any resident may be  
329 withdrawn at any time prior to the commencement of the treatment or  
330 surgical procedure. The director of any facility may authorize  
331 necessary surgery for any resident where, in the opinion of the

332 resident's attending physician, the surgery is of an emergency nature  
333 and there is insufficient time to obtain the required written consent  
334 provided for in this section. The attending physician shall prepare a  
335 report describing the nature of the emergency which necessitated such  
336 surgery and shall file a copy of such report in the patient's record.

337 (g) The commissioner's oversight and monitoring of the medical  
338 care of persons placed or treated under the direction of the  
339 commissioner does not include the authority to make treatment  
340 decisions, except in limited circumstances in accordance with statutory  
341 procedures. In the exercise of such oversight and monitoring  
342 responsibilities, the commissioner shall not impede or seek to impede a  
343 properly executed medical order to withhold cardiopulmonary  
344 resuscitation. For purposes of this subsection, [a] "properly executed  
345 medical order to withhold cardiopulmonary resuscitation" means (1) a  
346 written order by the attending physician; (2) in consultation and with  
347 the consent of the patient or a person authorized by law; (3) when the  
348 attending physician is of the opinion that the patient is in a terminal  
349 condition, as defined in subsection (3) of section 19a-570, which  
350 condition will result in death within days or weeks; and (4) when such  
351 physician has requested and obtained a second opinion from a  
352 Connecticut licensed physician in the appropriate specialty that  
353 confirms the patient's terminal condition; [ A "properly executed  
354 medical order to withhold cardiopulmonary resuscitation" also] and  
355 includes the entry of such an order when the attending physician is of  
356 the opinion that the patient is in the final stage of a terminal condition  
357 but cannot state that the patient may be expected to expire during the  
358 next several days or weeks, or, in consultation with a physician  
359 qualified to make a neurological diagnosis, deems the patient to be  
360 permanently unconscious, provided the commissioner has reviewed  
361 the decision with the department's director of community medical  
362 services, the family and guardian of the patient and others who the  
363 commissioner deems appropriate, and determines that the order is a  
364 medically acceptable decision.

365 (h) Any person applying for services from the Commissioner of  
366 Mental Retardation or any person placed by a probate court under the  
367 direction of the Commissioner of Mental Retardation, and such  
368 person's parents or guardian, shall be informed orally and in writing at  
369 the time of application or placement of the rights guaranteed by this  
370 section and the provisions of subdivision (5) of section 46a-11. A  
371 summary of [these] such rights shall be posted conspicuously in the  
372 public areas of every public or private facility providing services to  
373 persons under the care of the Commissioner of Mental Retardation.

374 Sec. 9. Section 17a-240 of the general statutes is repealed and the  
375 following is substituted in lieu thereof:

376 (a) The Commissioner of Mental Retardation shall, within available  
377 appropriations, operate a school district within the Department of  
378 Mental Retardation to provide educational services to those persons  
379 eligible to receive services, as defined in section 17a-239. The school  
380 district shall be known as State of Connecticut-Unified School District  
381 #3. The school district shall operate on a twelve-month calendar to  
382 provide uninterrupted educational programming. There shall be an  
383 education council for [said] the school district within the Department  
384 of Mental Retardation which shall be composed of seven members to  
385 be appointed by the Commissioner of Mental Retardation as follows:  
386 One member from each of the six regions within the Department of  
387 Mental Retardation and one member from the Council on Mental  
388 Retardation. The term of each member shall be coterminous with the  
389 term of the Governor. The members of [said] the education council  
390 shall be persons with a demonstrated interest in and concern for  
391 infants and toddlers with developmental delays, and shall not be  
392 employees of the Department of Mental Retardation or the [state]  
393 Department of Education. The education council shall annually elect a  
394 [chairman] chairperson and a secretary from its membership. [Said]  
395 The education council shall meet at least four times a year or at such  
396 other times as the [chairman] chairperson deems necessary.

397 (b) The education council for the school district within the  
398 Department of Mental Retardation shall (1) be responsible for planning  
399 and maintaining such appropriate educational programs as [it] the  
400 education council deems necessary or advisable in the interests of the  
401 persons benefiting [therefrom, shall] from such programs, (2) make a  
402 continuing study of the educational needs of seriously retarded  
403 persons in the state and [will do] conduct such planning as is  
404 necessary to meet their needs, and [will] (3) report annually to the  
405 Commissioner of Mental Retardation regarding the progress and  
406 accomplishments of the school district.

407 Sec. 10. Section 17a-242 of the general statutes is repealed and the  
408 following is substituted in lieu thereof:

409 The Commissioner of Mental Retardation, together with the  
410 superintendent and education council of the school district, shall  
411 annually evaluate progress and accomplishments of [said] the school  
412 district. [Said commissioner] The Commissioner of Mental Retardation  
413 shall (1) submit annual evaluation reports to the Commissioner of  
414 Education in order to apprise the State Board of Education of the  
415 condition, progress and needs of [said] the school district, [ Said  
416 commissioner shall] and (2) follow procedures adopted by the  
417 Commissioner of Education in preparation of such annual evaluation  
418 reports.

419 Sec. 11. Section 17a-247 of the general statutes is repealed and the  
420 following is substituted in lieu thereof:

421 (a) Any employee of the Department of Mental Retardation  
422 appointed as a guardian or limited guardian pursuant to subsection  
423 [(e)] (f) of section 45a-676 shall exercise judgment, independent of the  
424 department, for the benefit and best interests of [his] the ward.

425 (b) The Department of Mental Retardation shall not take or threaten  
426 to take any action against any [such] employee of the department in  
427 retaliation for such employee's conduct as a guardian or limited

428 guardian of a mentally retarded person.

429 Sec. 12. Section 17a-277 of the general statutes is repealed and the  
430 following is substituted in lieu thereof:

431 The director of any state training school, regional facility or other  
432 facility for the care and training of the mentally retarded may place  
433 any mentally retarded resident committed or admitted to such training  
434 school, regional facility or other facility provided for the care and  
435 training of the mentally retarded, under the provisions of sections 17a-  
436 210 to 17a-247, inclusive, as amended by this act, and 17a-273, in a  
437 private boarding home, group home or other residential facility to be  
438 cared for in accordance with the following conditions:

439 (1) Such person shall, despite such transfer, remain subject to the  
440 control of the director of such training school, regional facility or other  
441 facility provided for the care and training of the mentally retarded, and  
442 [such] the director may, at any time, order and provide for the return  
443 of any such resident to such training school, regional facility or other  
444 facility provided for the care and training of the mentally retarded,  
445 subject to any limitations of the term of commitment contained in the  
446 order of commitment under which such resident was committed;

447 (2) When the transfer of any such person has been authorized or  
448 when, having been transferred to a private boarding home, group  
449 home or other residential facility for mentally retarded persons, such  
450 person has been returned to the training school, regional facility or  
451 other facility, the director of such training school, regional facility or  
452 other facility shall forthwith so notify the Commissioner of Mental  
453 Retardation;

454 (3) Such private boarding home, group home or other residential  
455 facility shall be licensed by the [state] Department of Mental  
456 Retardation, the Department of Children and Families or the  
457 Department of Public Health under such regulations as said  
458 departments adopt;

459 (4) The Commissioner of Mental Retardation shall, upon request, be  
460 given access to the complete record of any person placed in a private  
461 boarding home, group home or other residential facility pursuant to  
462 this section.

463 Sec. 13. Section 17a-453 of the general statutes is repealed and the  
464 following is substituted in lieu thereof:

465 The [state] Department of Mental Health and Addiction Services is  
466 designated as the state agency to administer the Mental Health Act as  
467 authorized under Public Law 487 of the 79th Congress, as from time to  
468 time amended, and shall receive and distribute federal and state funds  
469 which become available for mental health services under said act.

470 Sec. 14. Section 17a-457 of the general statutes is repealed and the  
471 following is substituted in lieu thereof:

472 (a) The Board of Mental Health and Addiction Services shall meet  
473 monthly with the Commissioner of Mental Health and Addiction  
474 Services to review with [him] the commissioner and advise [him] the  
475 commissioner on programs, policies and plans of the Department of  
476 Mental Health and Addiction Services.

477 (b) The board shall advise the Governor concerning candidates for  
478 the position of Commissioner of Mental Health and Addiction  
479 Services.

480 (c) The board may issue periodic reports to the Governor and the  
481 Commissioner of Mental Health and Addiction Services.

482 (d) The board shall select a [chairman] chairperson and other  
483 officers from its membership and may establish rules governing its  
484 internal procedures.

485 (e) Members of the board may examine the files and records of the  
486 central office of the Department of Mental Health and Addiction  
487 Services at any time and, upon reasonable notice, of state-operated

488 facilities for the treatment of persons with psychiatric disabilities or  
489 substance abuse disabilities.

490 (f) The board shall advise and assist the Commissioner of Mental  
491 Health and Addiction Services on program development and  
492 community mental health or substance abuse center construction  
493 planning.

494 (g) The board is designated and shall serve as the state advisory  
495 council to consult with the [state] Department of Mental Health and  
496 Addiction Services in administering the state's mental health and  
497 substance abuse programs.

498 (h) The board may, from time to time, appoint nonmembers to serve  
499 on such ad hoc advisory committees as it deems necessary to assist  
500 with its functions.

501 Sec. 15. Section 19a-73 of the general statutes is repealed and the  
502 following is substituted in lieu thereof:

503 The medical records of each hospital, as defined in [subsection (b)  
504 of] section 19a-490, for each patient who has been newly diagnosed as  
505 having contracted cancer shall include a complete occupational history  
506 of such patient. [Not later than October 1, 1980, the] The Commissioner  
507 of Public Health shall adopt regulations, [defining occupational  
508 history] in accordance with the provisions of chapter 54, to define  
509 occupational history.

510 Sec. 16. Section 19a-176 of the general statutes is repealed and the  
511 following is substituted in lieu thereof:

512 The Department of Public Health shall be the lead agency for the  
513 state's emergency medical services program and shall be responsible  
514 for the planning, coordination and administration of a state-wide  
515 emergency medical care service system. The [Commissioner of Public  
516 Health] commissioner shall set policy and establish state-wide  
517 priorities for emergency medical services utilizing the services of the

518 [state] Department of Public Health and the emergency medical  
519 services councils, as established by section 19a-183.

520 Sec. 17. Section 19a-314a of the general statutes is repealed and the  
521 following is substituted in lieu thereof:

522 (a) As used in this section, [ : "Cemetery"] "cemetery" means any  
523 place performing interments on or after October 1, 1995.

524 (b) Each town, ecclesiastical society or cemetery association which  
525 owns, manages or controls a cemetery shall disclose to each consumer,  
526 in writing at the time of the sale of any item or service, any dispute  
527 resolution procedure of such town, ecclesiastical society or cemetery  
528 association. The written disclosure shall also indicate that the  
529 consumer may contact the [state] Department of Public Health or local  
530 public health director if [he] the consumer has any complaints which  
531 concern violations of sections 7-64 to 7-72, inclusive, 19a-310 and 19a-  
532 311.

533 Sec. 18. Section 19a-355 of the general statutes is repealed and the  
534 following is substituted in lieu thereof:

535 [Certain terms, when used in this chapter, are defined as follows] (a)  
536 As used in this chapter, unless the context otherwise requires:

537 (1) [A "tenement house"] "Tenement house" means any house or  
538 building, or portion thereof, which is rented, leased, let or hired out to  
539 be occupied, or is arranged or designed to be occupied, or is occupied,  
540 as the home or residence of three or more families, living  
541 independently of each other, and doing their cooking upon the  
542 premises, and having a common right in the halls, stairways or yards;

543 (2) [A "lodging house"] "Lodging house" or "boarding house" means  
544 any house or building or portion thereof, in which six or more persons  
545 are harbored, received or lodged for hire, or any building or part  
546 thereof, which is used as a sleeping place or lodging for six or more  
547 persons not members of the family residing therein;

548 (3) [An "apartment"] "Apartment" means a room or suite of rooms  
549 occupied or designed to be occupied as a family domicile;

550 (4) [A "yard"] "Yard" means an open, unoccupied space, on the same  
551 lot with a tenement, lodging or boarding house, between the rear line  
552 of such house and the rear line of the lot;

553 (5) [A "court"] "Court" means an open, unoccupied space, other than  
554 a yard, on the same lot with a tenement house; [a court not extending  
555 to the street or yard means an inner court; a court extending to the  
556 street or yard means an outer court; if it extends to the street, it means  
557 a street court; if it extends to the yard, it means a yard court;]

558 [(6) A "public hall" means a hall, corridor or passageway not within  
559 an apartment;]

560 [(7) A "basement"] (6) "Basement" means a story partly, but not more  
561 than one-half, below the level of the grade; and

562 [(8) A "cellar"] (7) "Cellar" means a story more than one-half below  
563 the level of the grade. [;]

564 [(9) The] (b) For purposes of this chapter, the word "shall" is  
565 mandatory and not directory, and denotes that the house shall be  
566 maintained in all respects according to the mandate, as long as it  
567 continues to be a tenement house. [;]

568 [(10)] (c) In determining the number of stories in a tenement house,  
569 a basement or an attic shall be counted as a story if it is occupied or  
570 designed to be occupied for living purposes. [;]

571 [(11) "Enforcing agency" means the board of health or other  
572 authority designated to enforce this chapter or a local housing code.]

573 Sec. 19. Section 19a-359 of the general statutes is repealed and the  
574 following is substituted in lieu thereof:

575 In each tenement house erected or subdivided after June 30, 1941,

576 there shall be a water closet in each apartment of two or more rooms.  
577 In each tenement house erected after August 31, 1930, and prior to July  
578 1, 1941, there shall be a water closet in each apartment of three or more  
579 rooms and at least one water closet for each two apartments of less  
580 than three rooms each. Each water closet shall be in a separate  
581 compartment or bathroom, upon the same floor with the apartment  
582 which it accommodates. Each bathroom, toilet room or other room  
583 containing one or more water closets or urinals, which is placed in any  
584 building, shall be at all times provided with adequate lighting and  
585 shall be ventilated in at least one of the following ways: [(a)] (1) By a  
586 window opening directly upon a street or other open public space or  
587 upon a court located on the same lot as the building, and having,  
588 between stop beads, an area not less than ten per cent of the floor area  
589 nor less than three square feet in any case and a width of not less than  
590 one foot; [(b)] (2) by a window of the size specified in [subsection (a)]  
591 subdivision (1) of this section, or a register, opening on a vent shaft  
592 which extends to and through the roof or into a court conforming to  
593 the requirements of this section for courts and which has a cross-  
594 sectional area of not less than one-fifth of a square foot for each foot of  
595 height but not less than nine square feet and a width of not less than  
596 sixteen inches in any case, and, unless open to the outer air at the top, a  
597 net area of louvre openings in the skylight equal to the maximum  
598 required shaft area; [(c)] (3) by an individual vent flue or duct  
599 extending independently of any other flue or duct to and above the  
600 roof and having a cross-sectional area of not less than one square foot  
601 for two or fewer water closets or urinal fixtures and one-third of a  
602 square foot additional for each additional water closet or urinal fixture;  
603 [(d)] (4) by a skylight in the ceiling, having a glazed surface of not less  
604 than three square feet and arranged so as to provide ventilating  
605 openings of not less than three square feet to the outer air above the  
606 roof of the building or into a court conforming to the requirements of  
607 this section for courts, for two or fewer water closets or urinal fixtures  
608 and two square feet additional for each additional water closet or  
609 urinal fixture; or [(e)] (5) by some approved system of mechanical

610 exhaust ventilation of sufficient capacity to provide not less than four  
611 changes of air per hour. Each vent shaft in a tenement house erected  
612 after August 31, 1930, shall be constructed of fire-proof material. Not  
613 more than two water closets or bathrooms shall open upon such a  
614 shaft on one floor of a tenement house, and no two water closet or  
615 bathroom windows opening upon such shaft on the same floor shall be  
616 opposite each other.

617 Sec. 20. Subsection (b) of section 19a-401 of the general statutes is  
618 repealed and the following is substituted in lieu thereof:

619 (b) The commission shall adopt regulations, in accordance with  
620 chapter 54, as necessary or appropriate to carry out effectively the  
621 administrative provisions of this chapter.

622 Sec. 21. Section 19a-420 of the general statutes is repealed and the  
623 following is substituted in lieu thereof:

624 As used in this chapter:

625 [(a)] (1) "Youth camp" means any regularly scheduled program or  
626 organized group activity advertised as a camp or operated by a  
627 person, partnership, corporation, association, the state or a municipal  
628 agency for recreational or educational purposes and accommodating  
629 for profit or under philanthropic or charitable auspices five or more  
630 children, under eighteen years of age, who are [(1)] (A) not bona fide  
631 personal guests in the private home of an individual, and [(2)] (B)  
632 living apart from their relatives, parents or legal guardian, for a period  
633 of three days or more per week or portions of three or more days per  
634 week, provided any such relative, parent or guardian who is an  
635 employee of such camp shall not be considered to be in the position of  
636 loco parentis to [his] such employee's child for the purposes of this  
637 chapter, but does not include schools which operate a summer  
638 educational program or licensed day care centers;

639 [(b)] (2) "Resident camp" means any youth camp which is

640 established, conducted or maintained on any parcel or parcels of land  
641 on which there are located dwelling units or buildings intended to  
642 accommodate five or more children for at least seventy-two  
643 consecutive hours and in which the campers attending such camps eat  
644 and sleep;

645 [(c)] (3) "Day camp" means any youth camp which is established,  
646 conducted or maintained on any parcel or parcels of land on which  
647 there are located dwelling units or buildings intended to accommodate  
648 five or more children during daylight hours for at least three days a  
649 week with the campers eating and sleeping at home, except for one  
650 meal per day, but does not include programs operated by a municipal  
651 agency;

652 [(d)] (4) "Person" means any individual, partnership, association,  
653 organization, limited liability company or corporation;

654 [(e)] (5) "Commissioner" means the Commissioner of Public Health;  
655 and

656 [(f)] (6) "Department" means the Department of Public Health.

657 Sec. 22. Section 19a-421 of the general statutes is repealed and the  
658 following is substituted in lieu thereof:

659 No person shall establish, conduct or maintain a youth camp  
660 without a license issued by the [Department of Public Health]  
661 department. Applications for such license shall be made in writing at  
662 least thirty days prior to the opening of the youth camp on forms  
663 provided and in accordance with procedures established by the  
664 [Commissioner of Public Health] commissioner and shall be  
665 accompanied by a fee of six hundred fifty dollars or, if the applicant is  
666 a nonprofit, nonstock corporation or association, a fee of two hundred  
667 fifty dollars or, if the applicant is a day camp affiliated with a nonprofit  
668 organization, for no more than five days duration and for which labor  
669 and materials are donated, no fee. All such licenses shall be valid for a

670 period of one year from the date of issuance unless surrendered for  
671 cancellation or suspended or revoked by the commissioner for  
672 violation of this chapter or any regulations [promulgated hereunder]  
673 adopted under section 19a-428 and shall be renewable upon payment  
674 of a six-hundred-fifty-dollar license fee or, if the licensee is a nonprofit,  
675 nonstock corporation or association, a two-hundred-fifty-dollar license  
676 fee or, if the applicant is a day camp affiliated with a nonprofit  
677 organization, for no more than five days duration and for which labor  
678 and materials are donated, no fee.

679 Sec. 23. Section 19a-422 of the general statutes is repealed and the  
680 following is substituted in lieu thereof:

681 To be eligible for the issuance or renewal of a youth camp license  
682 pursuant to this chapter, the camp shall satisfy the following  
683 requirements: [(a)] (1) The location of the camp shall be such as to  
684 provide adequate surface drainage and afford facilities for obtaining a  
685 good water supply; [(b)] (2) each dwelling unit, building and structure  
686 shall be maintained in good condition, suitable for the use to which it  
687 is put, and shall present no health or fire hazard as so certified, within  
688 ninety days of such application, by the [Department of Public Health]  
689 department or State Fire Marshal, as the case may be; [(c)] (3) there  
690 shall be an adequate and competent staff, which includes the camp  
691 director, activities specialists, counselors and maintenance personnel,  
692 of good character and reputation; [(d)] (4) all hazardous activities,  
693 including, but not limited to, archery, aquatics, horseback riding and  
694 firearms instruction, shall be supervised by a qualified activities  
695 specialist who has adequate experience and training in [his] such  
696 specialist's area of specialty; [(e)] (5) the staff of a resident and  
697 nonresident camp shall at all times include an adult trained in the  
698 administration of first aid as required by the commissioner; [(f)] (6)  
699 records of personal data for each camper shall be kept in any  
700 reasonable form the camp director may choose, [including therein] and  
701 shall include (A) the camper's name, age and address, [;] (B) the name,  
702 address and telephone number of the parents or guardian, [;] (C) the

703 dates of admission and discharge, [;] and [other such] (D) such other  
704 information as the commissioner shall require. Any youth camp  
705 licensed under this chapter shall operate only as the type of camp  
706 authorized by such license. Such camps shall not advertise any service  
707 they are not equipped or licensed to offer. The license shall be posted  
708 in a conspicuous place at camp headquarters and failure to so post the  
709 license shall result in the presumption that the camp is being operated  
710 in violation of this chapter.

711 Sec. 24. Subsection (a) of section 19a-438 of the general statutes is  
712 repealed and the following is substituted in lieu thereof:

713 (a) Application for a license to hold an actual or anticipated  
714 assembly of three thousand or more persons shall be made in writing  
715 to the governing body of the municipality at least thirty days in  
716 advance of such assembly and shall be accompanied by the bond  
717 required by [subdivision (2) (L)] subparagraph (L) of subdivision (2) of  
718 section 19a-437 and the license fee required by subsection (b) of section  
719 19a-436.

720 Sec. 25. Section 19a-491a of the general statutes is repealed and the  
721 following is substituted in lieu thereof:

722 (a) A person seeking a license to establish, conduct, operate or  
723 maintain a nursing home [, as defined in subsection (c) of section 19a-  
724 490,] shall provide the Department of Public Health with the following  
725 information:

726 (1) (A) The name and business address of the owner and a statement  
727 of whether the owner is an individual, partnership, corporation or  
728 other legal entity; (B) the names of the officers, directors, trustees, or  
729 managing and general partners of the owner, the names of persons  
730 having a ten per cent or greater ownership interest in the owner, and a  
731 description of each such person's occupation with the owner; and (C) if  
732 the owner is a corporation which is incorporated in another state, a  
733 certificate of good standing from the secretary of state of the state of

734 incorporation;

735 (2) A description of the relevant business experience of the owner  
736 and of the administrator of the nursing home and evidence that the  
737 administrator has a license issued pursuant to section 19a-514;

738 (3) Affidavits signed by the owner, any of the persons described in  
739 subdivision (1) of this subsection, the administrator, assistant  
740 administrator, the medical director, the director of nursing and  
741 assistant director of nursing disclosing any matter in which such  
742 person has been convicted of a felony, as defined in section 53a-25, or  
743 has pleaded nolo contendere to a felony charge, or has been held liable  
744 or enjoined in a civil action by final judgment, if the felony or civil  
745 action involved fraud, embezzlement, fraudulent conversion or  
746 misappropriation of property; or is subject to an injunction or  
747 restrictive or remedial order of a court of record at the time of  
748 application, within the past five years has had any state or federal  
749 license or permit suspended or revoked as a result of an action brought  
750 by a governmental agency or department, [rising] arising out of or  
751 relating to health care business activity, including, but not limited to,  
752 actions affecting the operation of a nursing home, retirement home,  
753 residential care home or any facility subject to sections 17b-520 to 17b-  
754 535, inclusive, or a similar statute in another state or country;

755 (4) (A) A statement as to whether or not the owner is, or is affiliated  
756 with, a religious, charitable or other nonprofit organization; (B) the  
757 extent of the affiliation, if any; (C) the extent to which the affiliate  
758 organization will be responsible for the financial obligations of the  
759 owner; [,] and (D) the provision of the [federal] Internal Revenue Code  
760 of 1986, or any subsequent corresponding internal revenue code of the  
761 United States, as from time to time amended, if any, under which the  
762 owner or affiliate is exempt from the payment of income tax;

763 (5) The location and a description of other health care facilities of the  
764 owner, existing or proposed, and, if proposed, the estimated  
765 completion date or dates and whether or not construction has begun;

766 and

767 (6) If the operation of the nursing home has not yet commenced, a  
768 statement of the anticipated source and application of the funds used  
769 or to be used in the purchase or construction of the home, including:

770 (A) An estimate of such costs as financing expense, legal expense,  
771 land costs, marketing costs and other similar costs which the owner  
772 expects to incur or become obligated for prior to the commencement of  
773 operations; and

774 (B) A description of any mortgage loan or any other financing  
775 intended to be used for the financing of the nursing home, including  
776 the anticipated terms and costs of such financing.

777 (b) In addition to the information provided pursuant to subsection  
778 (a) of this section, the commissioner may reasonably require an  
779 applicant for a nursing home license or renewal of a nursing home  
780 license to submit additional information. Such information may  
781 include audited and certified financial statements of the owner,  
782 including, (1) a balance sheet as of the end of the most recent fiscal  
783 year, and (2) income statements for the most recent fiscal year of the  
784 owner or such shorter period of time as the owner shall have been in  
785 existence.

786 (c) A person seeking to renew a nursing home license shall furnish  
787 the department with any information required under subsection (a) of  
788 this section that was not previously submitted and with satisfactory  
789 written proof that the owner of the [facility] nursing home consents to  
790 such renewal, if the owner is different than the person seeking  
791 renewal, and shall provide data on any change in the information  
792 submitted. The commissioner may refuse to issue or renew a nursing  
793 home license if the person seeking renewal fails to provide the  
794 information required under this section.

795 Sec. 26. Section 19a-492 of the general statutes is repealed and the

796 following is substituted in lieu thereof:

797 The commissioner shall adopt regulations, in accordance with the  
798 provisions of chapter 54, to provide that any person employed on  
799 January 1, 1981, as the administrator of a home health care agency in  
800 this state, [as defined in section 19a-490,] who has been so employed  
801 for a period of at least five years, shall be deemed to be qualified as an  
802 administrator by the [Commissioner of Public Health] commissioner.

803 Sec. 27. Section 19a-492b of the general statutes is repealed and the  
804 following is substituted in lieu thereof:

805 (a) A home health care agency [, as defined in section 19a-490,  
806 which] that receives payment for rendering care to persons receiving  
807 medical assistance from the state, general assistance medical benefits  
808 from a town, assistance from the Connecticut [home care] home-care  
809 program for the elderly [,] pursuant to section 17b-342, or funds  
810 obtained through Title XVIII of the Social Security Amendments of  
811 1965 shall be prohibited from discriminating against such persons who  
812 apply for enrollment to such home health care agency on the basis of  
813 source of payment.

814 (b) Any home health care agency which violates the provisions of  
815 this section shall be subject to suspension or revocation of license.

816 Sec. 28. Section 19a-495 of the general statutes is repealed and the  
817 following is substituted in lieu thereof:

818 (a) The Department of Public Health shall, after consultation with  
819 the appropriate public and voluntary hospital planning agencies,  
820 establish classifications of institutions. [It] The department shall, in [its]  
821 the Public Health Code, adopt, amend, promulgate and enforce such  
822 regulations based upon reasonable standards of health, safety and  
823 comfort of patients and demonstrable need for such institutions, with  
824 respect to each classification of institutions to be licensed under  
825 sections 19a-490 to 19a-503, inclusive, as amended by this act,

826 including their special facilities, as will further the accomplishment of  
827 the purposes of said sections in promoting safe, humane and adequate  
828 care and treatment of individuals in institutions. [Said] The  
829 department shall adopt such regulations, in accordance with chapter  
830 54, concerning home health care agencies and homemaker-home  
831 health aide agencies. [, as defined in section 19a-490.]

832 (b) The Department of Public Health, with the advice of the  
833 Department of Mental Health and Addiction Services, shall include in  
834 the regulations adopted pursuant to subsection (a) of this section,  
835 additional standards for community residences, as defined in section  
836 19a-507a, which shall include, but not be limited to, standards for: (1)  
837 Safety, maintenance and administration; (2) protection of human  
838 rights; (3) staffing requirements; (4) administration of medication; (5)  
839 program goals and objectives; (6) services to be offered; and (7)  
840 population to be served.

841 (c) The [Commissioner of Public Health] commissioner may waive  
842 any provisions of the regulations affecting the physical plant  
843 requirements of residential care homes [, as defined in section 19a-490,]  
844 if the commissioner determines that such waiver would not endanger  
845 the health, safety or welfare of any resident. The commissioner may  
846 impose conditions, upon granting the waiver, that assure the health,  
847 safety and welfare of residents, and may revoke the waiver upon a  
848 finding that the health, safety or welfare of any resident has been  
849 jeopardized. The commissioner shall not grant a waiver that would  
850 result in a violation of the State Fire Safety Code or State Building  
851 Code. The commissioner may adopt regulations, in accordance with  
852 chapter 54, establishing procedures for an application for a waiver  
853 pursuant to this subsection.

854 Sec. 29. Section 19a-496 of the general statutes is repealed and the  
855 following is substituted in lieu thereof:

856 An institution which is in operation at the time of [promulgation]  
857 the adoption of any regulations under section 19a-495, as amended by

858 this act, shall be given a reasonable time, not to exceed one year from  
859 the date of such [promulgation] adoption, within which to comply  
860 with such regulations. The [foregoing] provisions of this section shall  
861 not be construed to require the issuance of a license, or to prevent the  
862 suspension or revocation thereof, to an institution which does not  
863 comply with minimum requirements of health, safety and comfort  
864 designated by the Department of Public Health through regulation  
865 adopted under the provisions of section 19a-495, as amended by this  
866 act.

867 Sec. 30. Section 19a-497 of the general statutes is repealed and the  
868 following is substituted in lieu thereof:

869 Any institution [, as defined in section 19a-490,] shall, upon receipt  
870 of a notice of intention to strike by a labor organization representing  
871 the employees of such [facility] institution, in accordance with the  
872 provisions of the National Labor Relations Act, 29 USC 158,  
873 immediately file a strike contingency plan with the [Commissioner of  
874 Public Health] commissioner. The commissioner shall adopt  
875 regulations, in accordance with the provisions of chapter 54, to  
876 establish requirements for such plan. Such plan shall be deemed a  
877 statement of strategy or negotiation with respect to collective  
878 bargaining for the purpose of subdivision (9) of subsection (b) of  
879 section 1-210.

880 Sec. 31. Section 19a-498 of the general statutes is repealed and the  
881 following is substituted in lieu thereof:

882 (a) Subject to the provisions of section 19a-493, the Department of  
883 Public Health shall make or cause to be made a biennial licensure  
884 inspection of all institutions and such other inspections and  
885 investigations of institutions and examination of their records as [it]  
886 the department deems necessary.

887 (b) The [Commissioner of Public Health] commissioner, or an agent  
888 authorized by [him] the commissioner to conduct any inquiry,

889 investigation or hearing under the provisions of this chapter, shall  
890 have power to inspect the premises of an institution, administer oaths  
891 and take testimony under oath relative to the matter of inquiry or  
892 investigation. At any hearing ordered by the department, the  
893 commissioner or [his] such agent may subpoena witnesses and require  
894 the production of records, papers and documents pertinent to such  
895 inquiry. If any person disobeys such subpoena or, having appeared in  
896 obedience thereto, refuses to answer any pertinent question put to  
897 [him] such person by the commissioner or [his] such agent or to  
898 produce any records and papers pursuant to the subpoena, the  
899 commissioner or [his] such agent may apply to the superior court for  
900 the judicial district of Hartford or for the judicial district wherein the  
901 person resides or wherein the business has been conducted, [or to any  
902 judge of said court if the same is not in session,] setting forth such  
903 disobedience or refusal, and said court [or such judge] shall cite such  
904 person to appear before said court [or such judge] to answer such  
905 question or to produce such records and papers.

906 (c) The Department of Mental Health and Addiction Services, with  
907 respect to any mental health facility [, as defined in subsection (h) of  
908 section 19a-490,] or alcohol or drug treatment facility, [as defined in  
909 subsection (i) of section 19a-490,] shall be authorized, either upon the  
910 request of the Commissioner of Public Health or at such other times as  
911 they deem necessary, to enter such facility for the purpose of  
912 inspecting programs conducted [therein] at such facility. A written  
913 report of the findings of any such inspection shall be forwarded to the  
914 Commissioner of Public Health and a copy shall be maintained in [the]  
915 such facility's licensure file.

916 (d) In addition, the Commissioner of Social Services, or [his] a  
917 designated representative of the Commissioner of Social Services, at  
918 the request of the Office of Health Care Access or when [said  
919 commissioner] the Commissioner of Social Services deems it necessary,  
920 may examine and audit the financial records of any nursing home  
921 facility, as defined in section 19a-521. Each such nursing home facility

922 shall retain all financial information, data and records relating to the  
923 operation of the nursing home facility for a period of not less than ten  
924 years, and all financial information, data and records relating to any  
925 real estate transactions affecting such operation, for a period of not less  
926 than twenty-five years, which financial information, data and records  
927 shall be made available, upon request, to the Commissioner of Social  
928 Services or [his] such designated representative at all reasonable times.

929 Sec. 32. Section 19a-499 of the general statutes is repealed and the  
930 following is substituted in lieu thereof:

931 (a) Information received by the Department of Public Health  
932 through filed reports, inspection or as otherwise authorized under this  
933 chapter, shall not be disclosed publicly in such manner as to identify  
934 any patient of an institution, [as defined herein,] except in a  
935 proceeding involving the question of licensure or in any proceeding  
936 before the Office of Health Care Access involving such institution.

937 (b) Notwithstanding the provisions of subsection (a) of this section,  
938 all records obtained by the commissioner in connection with any  
939 [such] investigation under this chapter shall not be subject to the  
940 provisions of section 1-210 for a period of six months from the date of  
941 the petition or other event initiating such investigation, or until such  
942 time as the investigation is terminated pursuant to a withdrawal or  
943 other informal disposition or until a hearing is convened pursuant to  
944 chapter 54, whichever is earlier. A complaint, as defined in subdivision  
945 (6) of section 19a-13, shall be subject to the provisions of section 1-210  
946 from the time that it is served or mailed to the respondent. Records  
947 which are otherwise public records shall not be deemed confidential  
948 merely because they have been obtained in connection with an  
949 investigation under this chapter.

950 Sec. 33. Section 19a-502 of the general statutes is repealed and the  
951 following is substituted in lieu thereof:

952 (a) Any person establishing, conducting, managing or operating any

953 institution without the license required under the provisions of  
954 sections 19a-490 to 19a-503, inclusive, as amended by this act, or  
955 owning real property or improvements upon or within which such an  
956 institution is established, conducted, managed or operated, without  
957 the certificate required under the provisions of section 19a-491, shall be  
958 fined not more than one hundred dollars for each offense, and each  
959 day of a continuing violation after conviction shall be considered a  
960 separate offense. The penalty provisions of this subsection shall not  
961 apply to any financial institution regulated by any state or federal  
962 agency or body, which financial institution has succeeded to the title of  
963 the premises by mortgage foreclosure and the operator, if any,  
964 continues to occupy such property.

965 (b) If any person conducting, managing or operating any nursing  
966 home facility, as defined in section 19a-521, fails to maintain or make  
967 available the financial information, data or records required under  
968 subsection (d) of section 19a-498, as amended by this act, such person's  
969 license as a nursing home administrator may be revoked or suspended  
970 in accordance with section 19a-517 or the license of such nursing home  
971 facility may be revoked or suspended in the manner provided in  
972 section 19a-494, or both.

973 Sec. 34. Section 19a-504 of the general statutes is repealed and the  
974 following is substituted in lieu thereof:

975 The Department of Public Health shall [make] adopt such  
976 regulations, in accordance with chapter 54, pertaining to the prompt  
977 removal of bodies of deceased persons from the presence of other  
978 patients in hospitals, residential care homes or rest homes [, as defined  
979 in section 19a-490,] as will minimize, as far as possible, disturbance of  
980 such other patients.

981 Sec. 35. Section 19a-528a of the general statutes is repealed and the  
982 following is substituted in lieu thereof:

983 Any nursing home licensee or owner who (1) has had four civil

984 penalties imposed through final order of the commissioner in  
985 accordance with the provisions of sections 19a-524 to 19a-528,  
986 inclusive, during a two-year period, [or] (2) has had intermediate  
987 sanctions imposed through final adjudication under the Medicare or  
988 Medicaid program pursuant to Title XVIII or XIX of the federal Social  
989 Security Act, 42 USC 301, as from time to time amended, or (3) has had  
990 [his] such licensee's or owner's Medicare or Medicaid provider  
991 agreement terminated or not renewed, shall not acquire another  
992 nursing home [, as defined in subsection (c) of section 19a-490,] in this  
993 state for a period of five years from the date of final order on such civil  
994 penalties, final adjudication of such intermediate sanctions, or  
995 termination or nonrenewal.

996 Sec. 36. Section 19a-534a of the general statutes is repealed and the  
997 following is substituted in lieu thereof:

998 If the [Commissioner of Public Health] commissioner finds that the  
999 health, safety or welfare of any patient or patients in any nursing home  
1000 facility imperatively requires emergency action and [he] incorporates a  
1001 finding to that effect in [his] the order, [he] the commissioner may  
1002 issue a summary order to the holder of a license issued pursuant to  
1003 section 19a-493 pending completion of any proceedings conducted  
1004 pursuant to section 19a-494. [These] Such proceedings shall be  
1005 promptly instituted and determined. The orders which the  
1006 commissioner may issue shall include, but not be limited to: [(a)] (1)  
1007 Revoking or suspending the license; [(b)] (2) prohibiting the nursing  
1008 home facility from admitting new patients or discharging current  
1009 patients; [and (c)] (3) limiting the license of a nursing home facility in  
1010 any respect, including reducing the licensed patient capacity; and [(d)]  
1011 (4) compelling compliance with the applicable statutes or regulations  
1012 [of] administered or adopted by the department.

1013 Sec. 37. Section 19a-541 of the general statutes is repealed and the  
1014 following is substituted in lieu thereof:

1015 [The following words and phrases, as] As used in this section and

1016 sections 19a-542 to 19a-549, inclusive, [shall have the following  
1017 meanings,] unless the context otherwise requires:

1018 [(a)] (1) "Nursing home facility" [means a facility as defined] shall  
1019 have the same meaning as provided in section 19a-521;

1020 [(b)] (2) "Emergency" means a situation, physical condition or one or  
1021 more practices, methods or operations which presents imminent  
1022 danger of death or serious physical or mental harm to residents of  
1023 [such] a nursing home facility;

1024 [(c)] (3) "Transfer trauma" means the medical and psychological  
1025 reactions to physical transfer that increase the risk of death, or grave  
1026 illness, or both, in elderly persons; and

1027 [(d)] (4) "Substantial violation" means a violation of law which  
1028 presents a reasonable likelihood of serious physical or mental harm to  
1029 residents of [such] a nursing home facility.

1030 Sec. 38. Section 19a-550 of the general statutes is repealed and the  
1031 following is substituted in lieu thereof:

1032 (a) As used in this section, [a] (1) "nursing home facility" [is as  
1033 defined] shall have the same meaning as provided in section 19a-521;  
1034 [a] (2) "chronic disease hospital" means a long-term hospital having  
1035 facilities, medical staff and all necessary personnel for the diagnosis,  
1036 care and treatment of chronic diseases; and (3) for the purposes of  
1037 subsections (c) and (d) of this section, and subsection (b) of section 19a-  
1038 537, "medically contraindicated" means a comprehensive evaluation of  
1039 the impact of a potential room transfer on the patient's physical,  
1040 mental and psychosocial well-being, which determines that the  
1041 transfer would cause new symptoms or exacerbate present symptoms  
1042 beyond a reasonable adjustment period resulting in a prolonged or  
1043 significant negative outcome that could not be ameliorated through  
1044 care plan intervention, as documented by a physician in a patient's  
1045 medical record.

1046 (b) There is established a patients' bill of rights for any person  
1047 admitted as a patient to any nursing home facility or chronic disease  
1048 hospital. The patients' bill of rights shall be implemented in accordance  
1049 with the provisions of Sections 1919(c)(2), 1919(c)(2)(D) and  
1050 1919(c)(2)(E) of the Social Security Act. [Said] The patients' bill of rights  
1051 shall provide that each such patient: (1) Is fully informed, as evidenced  
1052 by [his] the patient's written acknowledgment, prior to or at the time of  
1053 admission and during [his] the patient's stay, of [these] the rights set  
1054 forth in this section and of all rules and regulations governing patient  
1055 conduct and responsibilities; (2) is fully informed, prior to or at the  
1056 time of admission and during [his] the patient's stay, of services  
1057 available in the facility, and of related charges including any charges  
1058 for services not covered under Titles XVIII or XIX of the Social Security  
1059 Act, or not covered by basic per diem rate; (3) is entitled to choose [his]  
1060 the patient's own physician and is fully informed, by a physician, of  
1061 [his] the patient's medical condition unless medically contraindicated,  
1062 as documented by the physician in [his] the patient's medical record,  
1063 and is afforded the opportunity to participate in the planning of [his]  
1064 the patient's medical treatment and to refuse to participate in  
1065 experimental research; (4) in a residential care home or a chronic  
1066 disease hospital is transferred from one room to another within the  
1067 facility only for medical reasons, or for [his] the patient's welfare or  
1068 that of other patients, as documented in [his] the patient's medical  
1069 record and such record shall include documentation of action taken to  
1070 minimize any disruptive effects of such transfer, except a patient who  
1071 is a Medicaid recipient may be transferred from a private room to a  
1072 nonprivate room, provided no patient may be involuntarily  
1073 transferred from one room to another within the facility if (A) it is  
1074 medically established that the move will subject the patient to a  
1075 reasonable likelihood of serious physical injury or harm, or (B) the  
1076 patient has a prior established medical history of psychiatric problems  
1077 and there is psychiatric testimony that as a consequence of the  
1078 proposed move there will be exacerbation of the psychiatric problem  
1079 which would last over a significant period of time and require

1080 psychiatric intervention; and in the case of an involuntary transfer  
1081 from one room to another within the facility, the patient and, if known,  
1082 [his] the patient's legally liable relative, guardian or conservator, is  
1083 given at least thirty days' and no more than sixty days' written notice  
1084 to ensure orderly transfer from one room to another within the facility,  
1085 except where the health, safety or welfare of other patients is  
1086 endangered or where immediate transfer from one room to another  
1087 within the facility is necessitated by urgent medical need of the patient  
1088 or where a patient has resided in the facility for less than thirty days, in  
1089 which case notice shall be given as many days before the transfer as  
1090 practicable; (5) is encouraged and assisted, throughout [his] the  
1091 patient's period of stay, to exercise [his] the patient's rights as a patient  
1092 and as a citizen, and to this end may voice grievances and recommend  
1093 changes in policies and services to facility staff or to outside  
1094 representatives of [his] the patient's choice, free from restraint,  
1095 interference, coercion, discrimination or reprisal; (6) shall have prompt  
1096 efforts made by the facility to resolve grievances the patient may have,  
1097 including those with respect to the behavior of other patients; (7) may  
1098 manage [his] the patient's personal financial affairs, and is given a  
1099 quarterly accounting of financial transactions made on [his] the  
1100 patient's behalf; (8) is free from mental and physical abuse, corporal  
1101 punishment, involuntary seclusion and any physical or chemical  
1102 restraints imposed for purposes of discipline or convenience and not  
1103 required to treat the patient's medical symptoms. Physical or chemical  
1104 restraints may be imposed only to ensure the physical safety of the  
1105 patient or other patients and only upon the written order of a  
1106 physician that specifies the type of restraint and the duration and  
1107 circumstances under which the restraints are to be used, except in  
1108 emergencies until a specific order can be obtained; (9) is assured  
1109 confidential treatment of [his] the patient's personal and medical  
1110 records, and may approve or refuse their release to any individual  
1111 outside the facility, except in case of [his] the patient's transfer to  
1112 another health care institution or as required by law or third-party  
1113 payment contract; (10) receives services with reasonable

1114 accommodation of individual needs and preferences, except where the  
1115 health or safety of the individual would be endangered, and is treated  
1116 with consideration, respect, and full recognition of [his] the patient's  
1117 dignity and individuality, including privacy in treatment and in care  
1118 for [his] the patient's personal needs; (11) is not required to perform  
1119 services for the facility that are not included for therapeutic purposes  
1120 in [his] the patient's plan of care; (12) may associate and communicate  
1121 privately with persons of [his] the patient's choice, including other  
1122 patients, send and receive [his] the patient's personal mail unopened  
1123 and make and receive telephone calls privately, unless medically  
1124 contraindicated, as documented by [his] the patient's physician in [his]  
1125 the patient's medical record, and receives adequate notice before [his]  
1126 the patient's room or [his] roommate in the facility is changed; (13) is  
1127 entitled to organize and participate in patient groups in the facility and  
1128 to participate in social, religious and community activities that do not  
1129 interfere with the rights of other patients, unless medically  
1130 contraindicated, as documented by [his] the patient's physician in [his]  
1131 the patient's medical records; (14) may retain and use [his] the patient's  
1132 personal clothing and possessions unless to do so would infringe upon  
1133 rights of other patients or unless medically contraindicated, as  
1134 documented by [his] the patient's physician in [his] the patient's  
1135 medical record; (15) if married, is assured privacy for visits by [his] the  
1136 patient's spouse and if both are inpatients in the facility, they are  
1137 permitted to share a room, unless medically contraindicated, as  
1138 documented by the attending physician in the medical record; (16) is  
1139 fully informed of the availability of and may examine all current state,  
1140 local and federal inspection reports and plans of correction; (17) may  
1141 organize, maintain and participate in a patient-run resident council, as  
1142 a means of fostering communication among residents and between  
1143 residents and staff, encouraging resident independence and  
1144 addressing the basic rights of nursing home and chronic disease  
1145 hospital patients and residents, free from administrative interference  
1146 or reprisal; (18) is entitled to the opinion of two physicians concerning  
1147 the need for surgery, except in an emergency situation, prior to such

1148 surgery being performed; (19) is entitled to have the patient's family  
1149 meet in the facility with the families of other patients in the facility to  
1150 the extent the facility has existing meeting space available which meets  
1151 applicable building and fire codes; (20) is entitled to file a complaint  
1152 with the [state] Department of Social Services and the [state]  
1153 Department of Public Health regarding patient abuse, neglect or  
1154 misappropriation of patient property; (21) is entitled to have  
1155 psychopharmacologic drugs administered only on orders of a  
1156 physician and only as part of a written plan of care designed to  
1157 eliminate or modify the symptoms for which the drugs are prescribed  
1158 and only if, at least annually, an independent external consultant  
1159 reviews the appropriateness of the drug plan; (22) is entitled to be  
1160 transferred or discharged from the facility only pursuant to section  
1161 19a-535 or section 19a-535b, as applicable; (23) is entitled to be treated  
1162 equally with other patients with regard to transfer, discharge and the  
1163 provision of all services regardless of the source of payment; (24) shall  
1164 not be required to waive any rights to benefits under Medicare or  
1165 Medicaid or to give oral or written assurance that [he] the patient is  
1166 not eligible for, or will not apply for benefits under Medicare or  
1167 Medicaid; (25) is entitled to be provided information by the facility as  
1168 to how to apply for Medicare or Medicaid benefits and how to receive  
1169 refunds for previous payments covered by such benefits; (26) on or  
1170 after October 1, 1990, shall not be required to give a third party  
1171 guarantee of payment to the facility as a condition of admission to, or  
1172 continued stay in, the facility; (27) in the case of an individual who is  
1173 entitled to medical assistance, is entitled to have the facility not charge,  
1174 solicit, accept or receive, in addition to any amount otherwise required  
1175 to be paid under Medicaid, any gift, money, donation or other  
1176 consideration as a precondition of admission or expediting the  
1177 admission of the individual to the facility or as a requirement for the  
1178 individual's continued stay in the facility; and (28) shall not be  
1179 required to deposit [his] the patient's personal funds in the facility.

1180 (c) The patients' bill of rights shall provide that a patient in a rest  
1181 home with nursing supervision or a chronic and convalescent nursing

1182 home may be transferred from one room to another within a facility  
1183 only for the purpose of promoting the patient's well-being, except as  
1184 provided pursuant to subparagraph (C) or (D) of this subsection or  
1185 subsection (d) of this section. Whenever a patient is to be transferred,  
1186 the facility shall effect the transfer with the least disruption to the  
1187 patient and shall assess, monitor and adjust care as needed subsequent  
1188 to the transfer in accordance with subdivision (10) of subsection (b) of  
1189 this section. When a transfer is initiated by the facility and the patient  
1190 does not consent to the transfer, the facility shall establish a  
1191 consultative process that includes the participation of the attending  
1192 physician, a registered nurse with responsibility for the patient and  
1193 other appropriate staff in disciplines as determined by the patient's  
1194 needs, and the participation of the patient, [his] the patient's family or  
1195 other representative. The consultative process shall determine: (1)  
1196 What caused consideration of the transfer; (2) whether the cause can be  
1197 removed; and (3) if not, whether the facility has attempted alternatives  
1198 to transfer. The patient shall be informed of the risks and benefits of  
1199 the transfer and of any alternatives. If subsequent to the completion of  
1200 the consultative process a patient still does not wish to be transferred,  
1201 the patient may be transferred without [his] the patient's consent,  
1202 unless medically contraindicated, only (A) if necessary to accomplish  
1203 physical plant repairs or renovations that otherwise could not be  
1204 accomplished; provided, if practicable, the patient, if [he] the patient  
1205 wishes, shall be returned to [his] the patient's room when the repairs or  
1206 renovations are completed; (B) due to irreconcilable incompatibility  
1207 between or among roommates, which is actually or potentially harmful  
1208 to the well-being of a patient; (C) if the facility has two vacancies  
1209 available for patients of the same sex in different rooms, there is no  
1210 applicant of that sex pending admission in accordance with the  
1211 requirements of section 19a-533 and grouping of patients by the same  
1212 sex in the same room would allow admission of patients of the  
1213 opposite sex, which otherwise would not be possible; (D) if necessary  
1214 to allow access to specialized medical equipment no longer needed by  
1215 the patient and needed by another patient; or (E) if the patient no

1216 longer needs the specialized services or programming that is the focus  
1217 of the area of the facility in which the patient is located. In the case of  
1218 an involuntary transfer, the facility shall, subsequent to completion of  
1219 the consultative process, provide the patient and [his] the patient's  
1220 legally liable relative, guardian or conservator if any or other  
1221 responsible party if known, with at least fifteen days' written notice of  
1222 the transfer, which shall include the reason for the transfer, the  
1223 location to which the patient is being transferred, and the name,  
1224 address and telephone number of the regional long-term care  
1225 ombudsman, except that in the case of a transfer pursuant to  
1226 subparagraph (A) of this subsection at least thirty days' notice shall be  
1227 provided. Notwithstanding the provisions of this subsection, a patient  
1228 may be involuntarily transferred immediately from one room to  
1229 another within a facility to protect [himself] the patient or others from  
1230 physical harm, to control the spread of an infectious disease, to  
1231 respond to a physical plant or environmental emergency that threatens  
1232 the patient's health or safety or to respond to a situation that presents a  
1233 patient with an immediate danger of death or serious physical harm.  
1234 In such a case, disruption of patients shall be minimized; the required  
1235 notice shall be provided within twenty-four hours after the transfer; if  
1236 practicable, the patient, if [he] the patient wishes, shall be returned to  
1237 [his] the patient's room when the threat to health or safety which  
1238 prompted the transfer has been eliminated; and, in the case of a  
1239 transfer effected to protect a patient or others from physical harm, the  
1240 consultative process shall be established on the next business day.

1241 (d) Notwithstanding the provisions of subsection (c) of this section,  
1242 unless medically contraindicated, a patient who is a Medicaid recipient  
1243 may be transferred from a private to a nonprivate room. In the case of  
1244 such a transfer, the facility shall (1) give at least thirty days' written  
1245 notice to the patient and [his] the patient's legally liable relative,  
1246 guardian or conservator, if any, or other responsible party, if known,  
1247 which notice shall include the reason for the transfer, the location to  
1248 which the patient is being transferred and the name, address and  
1249 telephone number of the regional long-term care ombudsman; and (2)

1250 establish a consultative process to effect the transfer with the least  
1251 disruption to the patient and assess, monitor and adjust care as needed  
1252 subsequent to the transfer in accordance with subdivision (10) of  
1253 subsection (b) of this section. The consultative process shall include the  
1254 participation of the attending physician, a registered nurse with  
1255 responsibility for the patient and other appropriate staff in disciplines  
1256 as determined by the patient's needs, and the participation of the  
1257 patient, [his] the patient's family or other representative.

1258 (e) Any facility that negligently deprives a patient of any right or  
1259 benefit created or established for the well-being of the patient by the  
1260 provisions of this section shall be liable to such patient in a private  
1261 cause of action for injuries suffered as a result of such deprivation.  
1262 Upon a finding that a patient has been deprived of such a right or  
1263 benefit, and that the patient has been injured as a result of such  
1264 deprivation, damages shall be assessed in the amount sufficient to  
1265 compensate such patient for such injury. In addition, where the  
1266 deprivation of any such right or benefit is found to have been wilful or  
1267 in reckless disregard of the rights of the patient, punitive damages may  
1268 be assessed. A patient may also maintain an action pursuant to this  
1269 section for any other type of relief, including injunctive and  
1270 declaratory relief, permitted by law. Exhaustion of any available  
1271 administrative remedies shall not be required prior to commencement  
1272 of suit under this section.

1273 (f) In addition to the rights specified in subsections (b), (c) and (d) of  
1274 this section, a patient in a nursing home facility is entitled to have the  
1275 facility manage [his or her] the patient's funds as provided in section  
1276 19a-551.

1277 Sec. 39. Subsection (c) of section 19a-571 of the general statutes is  
1278 repealed and the following is substituted in lieu thereof:

1279 (c) In the case of an infant, as defined in 45 CFR 1340.15 (b), the  
1280 physician or licensed medical facility shall comply with the provisions  
1281 of 45 CFR 1340.15 (b)(2) in addition to the provisions of subsection (a)

1282 of this section.

1283 Sec. 40. Section 19a-490c of the general statutes is repealed.

**Statement of Purpose:**

To make technical changes recommended by the Legislative Commissioners' Office.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*