



General Assembly

January Session, 2003

Raised Bill No. 6465

LCO No. 3348

Referred to Committee on Public Health

Introduced by:
(PH)

**AN ACT AUTHORIZING THE COMMISSIONER OF PUBLIC HEALTH
TO IMPOSE CIVIL PENALTIES AND TAKE OTHER DISCIPLINARY
ACTIONS AGAINST CERTAIN LICENSED PROVIDERS.**

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

1 Section 1. Section 19a-421 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) No person shall establish, conduct or maintain a youth camp
4 without a license issued by the department. Applications for such
5 license shall be made in writing at least thirty days prior to the
6 opening of the youth camp on forms provided and in accordance with
7 procedures established by the commissioner and shall be accompanied
8 by a fee of six hundred fifty dollars or, if the applicant is a nonprofit,
9 nonstock corporation or association, a fee of two hundred fifty dollars
10 or, if the applicant is a day camp affiliated with a nonprofit
11 organization, for no more than five days duration and for which labor
12 and materials are donated, no fee. All such licenses shall be valid for a
13 period of one year from the date of issuance unless surrendered for
14 cancellation or suspended or revoked by the commissioner for
15 violation of this chapter or any regulations adopted under section 19a-

16 428 and shall be renewable upon payment of a six-hundred-fifty-dollar
17 license fee or, if the licensee is a nonprofit, nonstock corporation or
18 association, a two-hundred-fifty-dollar license fee or, if the applicant is
19 a day camp affiliated with a nonprofit organization, for no more than
20 five days duration and for which labor and materials are donated, no
21 fee.

22 (b) Failure to submit the application and licensing fee at least thirty
23 days prior to the opening of the youth camp shall result in a penalty of
24 not more than one hundred dollars per day for each day the camp fails
25 to submit the application and fee.

26 Sec. 2. Section 19a-494 of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective October 1, 2003*):

28 (a) The Commissioner of Public Health, after a hearing held in
29 accordance with the provisions of chapter 54, may take any of the
30 following actions, singly or in combination, in any case in which [he]
31 the commissioner finds that there has been a substantial failure to
32 comply with the requirements established under this chapter, the
33 Public Health Code and licensing regulations:

34 (1) Revoke a license or certificate;

35 (2) Suspend a license or certificate;

36 (3) Censure a licensee or certificate holder;

37 (4) Issue a letter of reprimand to a licensee or certificate holder;

38 (5) Place a licensee or certificate holder on probationary status and
39 require [him] such licensee to report regularly to the department on
40 the matters which are the basis of the probation;

41 (6) Restrict the acquisition of other facilities for a period of time set
42 by the commissioner; [and]

43 (7) Issue an order compelling compliance with applicable statutes or

44 regulations of the department; and

45 (8) Impose a civil penalty.

46 (b) Notice of the hearing to the holder of a license or certificate shall
47 be effected by registered or certified mail or by personal service,
48 setting forth the particular reasons for the proposed action and fixing a
49 date, not less than thirty days from the date of such mailing or service,
50 at which the holder of such license or certificate shall be given an
51 opportunity for a prompt and fair hearing, and witnesses may be
52 subpoenaed by either party for such hearing. Such hearing may be
53 conducted by the Commissioner of Public Health, a deputy
54 commissioner, or by a member of the Department of Public Health,
55 designated by said commissioner. On the basis of such hearing, or
56 upon default of the holder of such license or certificate, the person
57 conducting such hearing shall specify [his] the findings and
58 conclusions, and said [department] commissioner may, upon the basis
59 of such findings and conclusions take any action authorized by this
60 section that [it] said commissioner deems necessary. A copy of such
61 decision shall be sent by registered or certified mail or served
62 personally upon the holder of such license or certificate.

63 Sec. 3. (NEW) (*Effective October 1, 2003*) (a) The Commissioner of
64 Public Health, after a hearing held in accordance with the provisions of
65 chapter 54 of the general statutes, may take any of the following
66 actions, singly or in combination, in any case in which the
67 commissioner finds that there has been a substantial failure to comply
68 with the requirements established under sections 19a-420 to 19a-428,
69 inclusive, of the general statutes, the Public Health Code or regulations
70 adopted pursuant to section 19a-428 of the general statutes: (1) Revoke
71 a license; (2) suspend a license; (3) impose a civil penalty of not more
72 than one hundred dollars per day for each day of violation; (4) **p**lace a
73 licensee on probationary status and require such licensee to report
74 regularly to the department on the matters which are the basis of the
75 probation; or (5) restrict the acquisition of other facilities for a period of

76 time set by the commissioner.

77 (b) Notice of the hearing to the holder of a license shall be effected
78 by registered or certified mail or by personal service, setting forth the
79 particular reasons for the proposed action and fixing a date, not less
80 than thirty days from the date of such mailing or service, at which the
81 holder of such license shall be given an opportunity for a prompt and
82 fair hearing, and witnesses may be subpoenaed by either party for
83 such hearing. Such hearing may be conducted by the Commissioner of
84 Public Health or by a member of the Department of Public Health,
85 designated by said commissioner. On the basis of such hearing, or
86 upon default of the holder of such license or certificate, the person
87 conducting such hearing shall specify the findings and conclusions,
88 and said commissioner may, upon the basis of such findings and
89 conclusions take any action authorized by this section that said
90 commissioner deems necessary. A copy of such decision shall be sent
91 by registered or certified mail or served personally upon the holder of
92 such license.

93 Sec. 4. (NEW) (*Effective October 1, 2003*) (a) If, upon inspection,
94 investigation or examination pursuant to section 19a-498 of the general
95 statutes, the Commissioner of Public Health determines that a hospital
96 has violated any provision of the general statutes relating to the
97 operation or maintenance of a hospital, or any regulation in the Public
98 Health Code or the Fire Safety Code relating to the operation or
99 maintenance of a hospital, said commissioner may impose a civil
100 penalty not to exceed twenty-five thousand dollars for each violation.
101 The commissioner may adopt regulations, in accordance with the
102 provisions of chapter 54 of the general statutes, establishing a schedule
103 of the amounts, or the ranges of amounts, of civil penalties which may
104 be imposed under this section, and the considerations upon which
105 such amounts shall be based.

106 (b) In setting a civil penalty in a particular case, the commissioner
107 shall consider all factors said commissioner deems relevant, including,

108 but not limited to, the following: (1) The amount of assessment
109 necessary to ensure immediate and continued compliance with such
110 provision; (2) the character and degree of impact of the violation on the
111 health, safety and welfare of any patient in the hospital; (3) the conduct
112 of the hospital against which the civil penalty is assessed in taking all
113 feasible steps or procedures necessary or appropriate to comply or to
114 correct the violation; and (4) any prior violations by the hospital of the
115 general statutes, regulations or orders administered, adopted or issued
116 by the commissioner.

117 (c) If the commissioner has reason to believe that a violation has
118 occurred for which a civil penalty is authorized by this section, the
119 commissioner shall send to the hospital, by certified mail, return
120 receipt requested, or personal service, a notice which includes: (1) A
121 reference to the section of the general statutes or regulations involved;
122 (2) a short and plain statement of the matters asserted or charged; (3) a
123 statement of the amount of civil penalty or penalties to be imposed if
124 there is a finding after a hearing that a violation has occurred, or upon
125 a default; and (4) a statement of the hospital's right to a hearing.

126 (d) The hospital to which the notice is addressed shall have twenty
127 days from the date of mailing of the notice to make written application
128 to the commissioner for a hearing to contest the notice of violation. If a
129 hearing is requested, the commissioner may issue a final order after a
130 hearing and, upon a finding that a violation has occurred, may assess a
131 civil penalty under this section, which shall be no greater than the
132 penalty stated in the notice. If a hearing is not requested within such
133 twenty-day period, or if a request for a hearing is later withdrawn,
134 then the notice shall become a final order of the commissioner,
135 effective upon the expiration of such twenty-day period or on the first
136 day after the withdrawal of such request for hearing, whichever is
137 later, and the matters asserted or charged in the notice shall be deemed
138 admitted unless modified by a consent order, which shall become the
139 final order.

140 (e) If any hospital requests a hearing under this section, such
141 hearing shall be conducted pursuant to chapter 54 of the general
142 statutes. The commissioner may grant an extension of time for the
143 hospital to respond, or may mitigate or waive the civil penalty
144 contained in the notice upon such terms and conditions as the
145 commissioner deems proper or necessary upon consideration of the
146 factors set forth in subsection (b) of this section or of any extenuating
147 factors or circumstances. The commissioner shall, after the hearing,
148 issue a final order affirming, modifying or vacating the notice of
149 violation.

150 (f) A final order of the commissioner assessing a civil penalty shall
151 be subject to appeal as set forth in section 4-183 of the general statutes,
152 after a hearing before the commissioner pursuant to subsection (e) of
153 this section, except that any such appeal shall be taken to the superior
154 court for the judicial district of New Britain and shall have precedence
155 in the order of trial as provided in section 52-191 of the general
156 statutes. Such final order shall not be subject to appeal under any
157 other provision of the general statutes. No challenge to any final order
158 of the commissioner assessing a civil penalty shall be allowed as to any
159 issue which could have been raised by an appeal of an earlier order,
160 notice, permit, denial or other final decision by the commissioner.

161 (g) If any hospital fails to pay any civil penalty, the Attorney
162 General, upon request of the Commissioner of Public Health, may
163 bring an action in the superior court for the judicial district of Hartford
164 to obtain enforcement of the penalty by the court. All actions brought
165 by the Attorney General pursuant to the provisions of this section shall
166 have precedence in the order of trial as provided in section 52-191 of
167 the general statutes.

168 Sec. 5. (NEW) (*Effective October 1, 2003*) (a) For the purposes of this
169 section, "health care facility" means an assisted living services agency
170 or an institution, as defined in section 19a-490 of the general statutes,
171 except that "health care facility" shall not include a hospital, residential

172 care home, nursing home or rest home.

173 (b) If, upon inspection, investigation or examination pursuant to
174 section 19a-498 of the general statutes, the Commissioner of Public
175 Health determines that a health care facility has violated any provision
176 of the general statutes relating to the operation or maintenance of a
177 health care facility, or any regulation in the Public Health Code or the
178 Fire Safety Code relating to the operation or maintenance of a health
179 care facility, said commissioner may impose a civil penalty not to
180 exceed three thousand dollars for each violation. The commissioner
181 may adopt regulations, in accordance with the provisions of chapter 54
182 of the general statutes, establishing a schedule of the amounts, or the
183 ranges of amounts, of civil penalties which may be imposed under this
184 section, and the considerations upon which such amounts shall be
185 based.

186 (c) In setting a civil penalty in a particular case, the commissioner
187 shall consider all factors which said commissioner deems relevant,
188 including, but not limited to, the following: (1) The amount of
189 assessment necessary to ensure immediate and continued compliance
190 with such provision; (2) the character and degree of impact of the
191 violation on the health, safety and welfare of any patient or client in
192 the health care facility; (3) the conduct of the health care facility against
193 which the civil penalty is assessed in taking all feasible steps or
194 procedures necessary or appropriate to comply or to correct the
195 violation; and (4) any prior violations by the health care facility of the
196 general statutes, regulations or orders administered, adopted or issued
197 by the commissioner.

198 (d) If the commissioner has reason to believe that a violation has
199 occurred for which a civil penalty is authorized by this section, the
200 commissioner shall send to the health care facility, by certified mail,
201 return receipt requested, or personal service, a notice which includes:
202 (1) A reference to the section of the general statutes or regulations
203 involved; (2) a short and plain statement of the matters asserted or

204 charged; (3) a statement of the amount of civil penalty or penalties to
205 be imposed if there is a finding after a hearing that a violation has
206 occurred, or upon a default; and (4) a statement of the health care
207 facility's right to a hearing.

208 (e) The health care facility to which the notice is addressed shall
209 have twenty days from the date of mailing of the notice to make
210 written application to the commissioner for a hearing to contest the
211 notice of violation. If a hearing is requested, the commissioner may
212 issue a final order after a hearing and, upon a finding that a violation
213 has occurred, may assess a civil penalty under this section, which shall
214 be no greater than the penalty stated in the notice. If a hearing is not
215 requested within such twenty-day period, or if a request for a hearing
216 is later withdrawn, then the notice shall become a final order of the
217 commissioner, effective upon the expiration of such twenty-day period
218 or on the first day after the withdrawal of such request for hearing,
219 whichever is later, and the matters asserted or charged in the notice
220 shall be deemed admitted unless modified by a consent order, which
221 shall become the final order.

222 (f) If any health care facility requests a hearing under this section,
223 such hearing shall be conducted pursuant to chapter 54 of the general
224 statutes. The commissioner may grant an extension of time for the
225 health care facility to respond, or may mitigate or waive the civil
226 penalty contained in the notice upon such terms and conditions as the
227 commissioner deems proper or necessary upon consideration of the
228 factors set forth in subsection (b) of this section or of any extenuating
229 factors or circumstances. The commissioner shall, after the hearing,
230 issue a final order affirming, modifying or vacating the notice of
231 violation.

232 (g) A final order of the commissioner assessing a civil penalty shall
233 be subject to appeal as set forth in section 4-183 of the general statutes,
234 after a hearing before the commissioner pursuant to subsection (e) of
235 this section, except that any such appeal shall be taken to the superior

236 court for the judicial district of New Britain and shall have precedence
237 in the order of trial as provided in section 52-191 of the general
238 statutes. Such final order shall not be subject to appeal under any
239 other provision of the general statutes. No challenge to any final order
240 of the commissioner assessing a civil penalty shall be allowed as to any
241 issue which could have been raised by an appeal of an earlier order,
242 notice, permit, denial or other final decision by the commissioner.

243 (h) If any health care facility fails to pay any civil penalty, the
244 Attorney General, upon request of the Commissioner of Public Health,
245 may bring an action in the superior court for the judicial district of
246 Hartford to obtain enforcement of the penalty by the court. All actions
247 brought by the Attorney General pursuant to the provisions of this
248 section shall have precedence in the order of trial as provided in
249 section 52-191 of the general statutes.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>

Statement of Purpose:

To assist in the timeliness of the submission of youth camp applications and to authorize disciplinary remedies for violation of statutes and regulations pertaining to youth camps, and to allow the Commissioner of Public Health to impose civil penalties for violations of statutes or regulations by hospitals and health care facilities.

[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.]