



Senate

General Assembly

File No. 427

February Session, 2004

Substitute Senate Bill No. 4

Senate, April 5, 2004

The Committee on Public Health reported through SEN. MURPHY of the 16th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE PATIENTS' BILL OF RIGHTS FOR RESIDENTS OF NURSING HOMES AND CHRONIC DISEASE HOSPITALS.

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

1 Section 1. Subsection (b) of section 19a-550 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2004*):

4 (b) There is established a patients' bill of rights for any person
5 admitted as a patient to any nursing home facility or chronic disease
6 hospital. The patients' bill of rights shall be implemented in accordance
7 with the provisions of Sections 1919(b), 1919(c), 1919(c)(2),
8 1919(c)(2)(D) and 1919(c)(2)(E) of the Social Security Act. The patients'
9 bill of rights shall provide that each such patient: (1) Is fully informed,
10 as evidenced by the patient's written acknowledgment, prior to or at
11 the time of admission and during the patient's stay, of the rights set
12 forth in this section and of all rules and regulations governing patient

13 conduct and responsibilities; (2) is fully informed, prior to or at the
14 time of admission and during the patient's stay, of services available in
15 the facility, and of related charges including any charges for services
16 not covered under Titles XVIII or XIX of the Social Security Act, or not
17 covered by basic per diem rate; (3) is entitled to choose the patient's
18 own physician and is fully informed, by a physician, of the patient's
19 medical condition unless medically contraindicated, as documented by
20 the physician in the patient's medical record, and is afforded the
21 opportunity to participate in the planning of the patient's medical
22 treatment and to refuse to participate in experimental research; (4) in a
23 residential care home or a chronic disease hospital is transferred from
24 one room to another within the facility only for medical reasons, or for
25 the patient's welfare or that of other patients, as documented in the
26 patient's medical record and such record shall include documentation
27 of action taken to minimize any disruptive effects of such transfer,
28 except a patient who is a Medicaid recipient may be transferred from a
29 private room to a nonprivate room, provided no patient may be
30 involuntarily transferred from one room to another within the facility
31 if (A) it is medically established that the move will subject the patient
32 to a reasonable likelihood of serious physical injury or harm, or (B) the
33 patient has a prior established medical history of psychiatric problems
34 and there is psychiatric testimony that as a consequence of the
35 proposed move there will be exacerbation of the psychiatric problem
36 which would last over a significant period of time and require
37 psychiatric intervention; and in the case of an involuntary transfer
38 from one room to another within the facility, the patient and, if known,
39 the patient's legally liable relative, guardian or conservator or a person
40 designated by the patient in accordance with section 1-56r, as
41 amended, is given at least thirty days' and no more than sixty days'
42 written notice to ensure orderly transfer from one room to another
43 within the facility, except where the health, safety or welfare of other
44 patients is endangered or where immediate transfer from one room to
45 another within the facility is necessitated by urgent medical need of
46 the patient or where a patient has resided in the facility for less than
47 thirty days, in which case notice shall be given as many days before the

48 transfer as practicable; (5) is encouraged and assisted, throughout the
49 patient's period of stay, to exercise the patient's rights as a patient and
50 as a citizen, and to this end, has the right to be fully informed about
51 patients' rights by state or federally funded patient advocacy
52 programs, and may voice grievances and recommend changes in
53 policies and services to facility staff or to outside representatives of the
54 patient's choice, free from restraint, interference, coercion,
55 discrimination or reprisal; (6) shall have prompt efforts made by the
56 facility to resolve grievances the patient may have, including those
57 with respect to the behavior of other patients; (7) may manage the
58 patient's personal financial affairs, and is given a quarterly accounting
59 of financial transactions made on the patient's behalf; (8) is free from
60 mental and physical abuse, corporal punishment, involuntary
61 seclusion and any physical or chemical restraints imposed for
62 purposes of discipline or convenience and not required to treat the
63 patient's medical symptoms. Physical or chemical restraints may be
64 imposed only to ensure the physical safety of the patient or other
65 patients and only upon the written order of a physician that specifies
66 the type of restraint and the duration and circumstances under which
67 the restraints are to be used, except in emergencies until a specific
68 order can be obtained; (9) is assured confidential treatment of the
69 patient's personal and medical records, and may approve or refuse
70 their release to any individual outside the facility, except in case of the
71 patient's transfer to another health care institution or as required by
72 law or third-party payment contract; (10) receives quality care and
73 services with reasonable accommodation of individual needs and
74 preferences, except where the health or safety of the individual would
75 be endangered, and is treated with consideration, respect, and full
76 recognition of the patient's dignity and individuality, including
77 privacy in treatment and in care for the patient's personal needs; (11) is
78 not required to perform services for the facility that are not included
79 for therapeutic purposes in the patient's plan of care; (12) may
80 associate and communicate privately with persons of the patient's
81 choice, including other patients, send and receive the patient's
82 personal mail unopened and make and receive telephone calls

83 privately, unless medically contraindicated, as documented by the
84 patient's physician in the patient's medical record, and receives
85 adequate notice before the patient's room or roommate in the facility is
86 changed; (13) is entitled to organize and participate in patient groups
87 in the facility and to participate in social, religious and community
88 activities that do not interfere with the rights of other patients, unless
89 medically contraindicated, as documented by the patient's physician in
90 the patient's medical records; (14) may retain and use the patient's
91 personal clothing and possessions unless to do so would infringe upon
92 rights of other patients or unless medically contraindicated, as
93 documented by the patient's physician in the patient's medical record;
94 (15) is assured privacy for visits by the patient's spouse or a person
95 designated by the patient in accordance with section 1-56r, as
96 amended, and, if the patient is married and both the patient and the
97 patient's spouse are inpatients in the facility, they are permitted to
98 share a room, unless medically contraindicated, as documented by the
99 attending physician in the medical record; (16) is fully informed of the
100 availability of and may examine all current state, local and federal
101 inspection reports and plans of correction; (17) may organize, maintain
102 and participate in a patient-run resident council, as a means of
103 fostering communication among residents and between residents and
104 staff, encouraging resident independence and addressing the basic
105 rights of nursing home and chronic disease hospital patients and
106 residents, free from administrative interference or reprisal; (18) is
107 entitled to the opinion of two physicians concerning the need for
108 surgery, except in an emergency situation, prior to such surgery being
109 performed; (19) is entitled to have the patient's family or a person
110 designated by the patient in accordance with section 1-56r, as
111 amended, meet in the facility with the families of other patients in the
112 facility to the extent the facility has existing meeting space available
113 which meets applicable building and fire codes; (20) is entitled to file a
114 complaint with the Department of Social Services and the Department
115 of Public Health regarding patient abuse, neglect or misappropriation
116 of patient property; (21) is entitled to have psychopharmacologic drugs
117 administered only on orders of a physician and only as part of a

118 written plan of care developed in accordance with Section 1919(b)(2) of
 119 the Social Security Act and designed to eliminate or modify the
 120 symptoms for which the drugs are prescribed and only if, at least
 121 annually, an independent external consultant reviews the
 122 appropriateness of the drug plan; (22) is entitled to be transferred or
 123 discharged from the facility only pursuant to section 19a-535, as
 124 amended, or section 19a-535b, as applicable; (23) is entitled to be
 125 treated equally with other patients with regard to transfer, discharge
 126 and the provision of all services regardless of the source of payment;
 127 (24) shall not be required to waive any rights to benefits under
 128 Medicare or Medicaid or to give oral or written assurance that the
 129 patient is not eligible for, or will not apply for benefits under Medicare
 130 or Medicaid; (25) is entitled to be provided information by the facility
 131 as to how to apply for Medicare or Medicaid benefits and how to
 132 receive refunds for previous payments covered by such benefits; (26)
 133 on or after October 1, 1990, shall not be required to give a third party
 134 guarantee of payment to the facility as a condition of admission to, or
 135 continued stay in, the facility; (27) in the case of an individual who is
 136 entitled to medical assistance, is entitled to have the facility not charge,
 137 solicit, accept or receive, in addition to any amount otherwise required
 138 to be paid under Medicaid, any gift, money, donation or other
 139 consideration as a precondition of admission or expediting the
 140 admission of the individual to the facility or as a requirement for the
 141 individual's continued stay in the facility; and (28) shall not be
 142 required to deposit the patient's personal funds in the facility.

This act shall take effect as follows:	
Section 1	October 1, 2004

AGE *Joint Favorable Subst. C/R* PH
PH *Joint Favorable Subst.*

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

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Department of Social Services	GF - Cost	Potential Minimal	Potential Minimal

Municipal Impact: None

Explanation

This bill adds several provisions and clarifications to the current patients' bill of rights for long-term care patients. Long-term care facilities may incur additional costs implementing the provisions of the bill and providing all patients with updated copies of the patients' bill of rights. The state Medicaid program currently pays for roughly two-thirds of nursing home costs. To the extent that any of the long-term care facility costs from this bill are passed on to the Department of Social Services through the future rates set under the Medicaid program, additional costs to the state may result. Any such costs are expected to be minimal.

OLR Bill Analysis

sSB 4

AN ACT CONCERNING THE PATIENTS' BILL OF RIGHTS FOR RESIDENTS OF NURSING HOMES AND CHRONIC DISEASE HOSPITALS**SUMMARY:**

This bill gives patients in a nursing home or chronic disease hospital the specific right to be fully informed by state or federally funded patient advocacy programs about patients' rights and requires the institutions to include this right in the written "patients' bill of rights" they give patients.

The bill also (1) requires the patients' bill of rights to conform to federal law concerning general patients' rights, written care plans, and quality of care; (2) adds receipt of quality care as one of the patients' rights that must be disclosed in the patients' bill of rights; (3) specifies that the written care plan under which the patient can receive psychopharmacologic drugs must be developed consistent with federal law; and (4) makes technical changes.

EFFECTIVE DATE: October 1, 2004

BACKGROUND***Patients' Bill of Rights***

Under state and federal law, nursing homes and chronic disease hospitals must fully inform patients about their rights and provide each patient with a copy of a document that lists these numerous rights (called the "patients' bill of rights."). Patients have rights to be informed about services available, choose their own physician, be fully informed about their medical condition, participate in the planning of their care, have their grievances resolved promptly, manage their own financial affairs, be free from abuse or restraint, have their personal and medical records treated confidentially, receive reasonable accommodation for their individual needs and preferences, associate and communicate privately with other people, have certain private

visits, participate in patient groups and other organizations, receive certain protections related to room transfers and discharges from the institution, and other rights.

Federal nursing home law contains provisions generally similar to the state law concerning patients' rights and provisions on quality care, quality assessment and assurance, and written care plans (42 U.S.C.A. §1396r (b) and (c)).

COMMITTEE ACTION

Select Committee on Aging

Joint Favorable Substitute Change of Reference

Yea 9 Nay 0

Public Health Committee

Joint Favorable Substitute

Yea 22 Nay 0