



General Assembly

January Session, 2005

**Committee Bill No. 64**

LCO No. 3413

\*03413SB00064AGE\*

Referred to Committee on Select Committee on Aging

Introduced by:  
(AGE)

***AN ACT CONCERNING THE ADMISSION AND CARE OF PATIENTS IN NURSING HOMES.***

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

1 Section 1. Section 17b-359 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) For purposes of this section, the terms "mentally ill" and  
4 "specialized services" shall be as defined in Subsections (e)(7)(G)(i) and  
5 (iii) of Section 1919 of the Social Security Act and federal regulations  
6 and "trained staff" means staff trained in behavioral risk assessment  
7 and risk management appropriate for a nursing home setting.

8 [(b) No nursing facility shall admit any person, irrespective of  
9 source of payment, who has not undergone a preadmission screening  
10 process by which the Department of Mental Health and Addiction  
11 Services determines, based upon an independent physical and mental  
12 evaluation performed by or under the auspices of the Department of  
13 Social Services, whether the person is mentally ill and, if so, whether  
14 such person requires the level of services provided by a nursing  
15 facility and, if such person is mentally ill and does require such level of

16 services, whether the person requires specialized services. A person  
17 who is determined to be mentally ill and not to require nursing facility  
18 level services shall not be admitted to a nursing facility. In order to  
19 implement the preadmission review requirements of this section and  
20 to identify applicants for admission who may be mentally ill and  
21 subject to the requirements of this section, nursing facilities may not  
22 admit any person, irrespective of source of payment, unless an  
23 identification screen developed, or in the case of out-of-state residents  
24 approved, by the Department of Social Services has been completed  
25 and filed in accordance with federal law.]

26 (b) A nursing facility may not admit any person, irrespective of  
27 source of payment, unless an initial identification screen developed, or  
28 in the case of out-of-state residents, approved by the Department of  
29 Social Services to identify whether such person may be mentally ill has  
30 been completed and filed in accordance with federal law. A nursing  
31 facility shall not admit any applicant to the nursing facility who is  
32 initially identified as having a mental illness, irrespective of source of  
33 payment, unless: (1) Such applicant has undergone a second  
34 preadmission screening process by which the Department of Mental  
35 Health and Addiction Services determines whether the applicant is  
36 mentally ill, based upon an independent physical and mental  
37 evaluation performed by or under the auspices of the Department of  
38 Social Services, and, if so, whether such person requires the level of  
39 services provided by a nursing facility and, if such person is mentally  
40 ill and does require such level of services, whether the person requires  
41 specialized services, (2) the nursing facility has been provided with a  
42 copy of the second preadmission screening, and (3) the administrator  
43 of the nursing facility, in consultation with the medical director,  
44 director of nursing and the director of admissions for the nursing  
45 facility completes a written determination of whether the nursing  
46 facility has appropriate physical and program space, trained staff and  
47 programming to provide for the care and safety of such person and  
48 other residents of the nursing home. A person who is determined to be  
49 mentally ill and not to require nursing facility level services shall not

50 be admitted to a nursing facility.

51 (c) The Commissioner of Mental Health and Addiction Services,  
52 after consultation with the Commissioner of Public Health, shall  
53 develop a recommended curriculum guide and continued training  
54 syllabus for trained staff.

55 [(c)] (d) No payment from any source shall be due to any nursing  
56 facility that admits a resident in violation of the preadmission  
57 screening requirements of this section.

58 [(d)] (e) A nursing facility shall notify the Department of Mental  
59 Health and Addiction Services when a resident who is mentally ill  
60 undergoes a significant change in condition or when a resident who  
61 has not previously been diagnosed as mentally ill undergoes a change  
62 in condition which may require specialized services. The notification  
63 provided by the nursing facility to the Department of Mental Health  
64 and Addiction Services shall include information on whether the  
65 nursing facility has the appropriate physical and program space,  
66 trained staff and programming to continue to meet such resident's  
67 individualized needs. Upon such notifications, the Department of  
68 Mental Health and Addiction Services, under the auspices of the  
69 Department of Social Services, shall perform an evaluation to  
70 determine whether the resident requires the level of services provided  
71 by a nursing facility or requires specialized services for mental illness.

72 [(e)] (f) In the case of a mentally ill resident who is determined  
73 under subsection [(d)] (e) of this section not to require the level of  
74 services provided by a nursing facility but to require specialized  
75 services for mental illness and who has continuously resided in a  
76 nursing facility for at least thirty months before the date of the  
77 determination, the resident may elect to remain in the facility or to  
78 receive services covered by Medicaid in an alternative appropriate  
79 institutional or noninstitutional setting in accordance with the  
80 alternative disposition plan submitted by the Department of Social  
81 Services to the Secretary of the United States Department of Health

82 and Human Services, and consistent with the Department of Mental  
83 Health and Addiction Services requirements for the provision of  
84 specialized services.

85 [(f)] (g) In the case of a mentally ill resident who is determined  
86 under subsection [(d)] (e) of this section not to require the level of  
87 services provided by a nursing facility but to require specialized  
88 services for mental illness and who has not continuously resided in a  
89 nursing facility for at least thirty months before the date of the  
90 determination, the nursing facility in consultation with the Department  
91 of Mental Health and Addiction Services shall arrange for the safe and  
92 orderly discharge of the resident from the facility. If the department  
93 determines that the provision of specialized services requires an  
94 alternate residential placement, the discharge and transfer of the  
95 resident shall be made in accordance with the alternative disposition  
96 plan submitted by the Department of Social Services and approved by  
97 the Secretary of the United States Department of Health and Human  
98 Services, except if an alternate residential placement is not available,  
99 the resident shall not be transferred.

100 [(g)] (h) In the case of a resident who is determined under  
101 subsection [(d)] (e) of this section not to require the level of services  
102 provided by a nursing facility and not to require specialized services,  
103 the nursing facility shall arrange for the safe and orderly discharge of  
104 the resident from the facility.

105 [(h)] (i) Any person seeking admittance to a nursing facility or any  
106 resident of a nursing facility who is adversely affected by a  
107 determination of the Department of Mental Health and Addiction  
108 Services under this section may appeal such determination to the  
109 Department of Social Services [within] no later than fifteen days [of]  
110 after the receipt of the notice of a determination by the Department of  
111 Mental Health and Addiction Services. If an appeal is taken to the  
112 Department of Social Services the determination of the Department of  
113 Mental Health and Addiction Services shall be stayed pending

114 determination by the Department of Social Services.

115 Sec. 2. Section 17b-360 of the general statutes is repealed and the  
116 following is substituted in lieu thereof (*Effective October 1, 2005*):

117 (a) For purposes of this section, the terms "mental retardation", "a  
118 condition related to mental retardation" and "specialized services" shall  
119 be as defined in Subsection (e)(7)(G)(ii) of Section 1919 of the Social  
120 Security Act and federal regulations and "trained staff" means staff  
121 trained in behavioral risk assessment and risk management  
122 appropriate for a nursing home setting.

123 [(b) No nursing facility may admit any new resident irrespective of  
124 source of payment, who has mental retardation or has a condition  
125 related to mental retardation unless the Department of Mental  
126 Retardation has determined prior to admission based upon an  
127 independent physical and mental evaluation performed by or under  
128 the auspices of the Department of Social Services that because of the  
129 physical and mental condition of the individual, the individual  
130 requires the level of services provided by a nursing facility. If the  
131 individual requires such level of services, the Department of Mental  
132 Retardation shall also determine whether the individual requires  
133 specialized services for such condition. An individual who is  
134 determined by the Department of Mental Retardation to have mental  
135 retardation or to have a related condition and is determined not to  
136 require nursing facility level of services shall not be admitted to a  
137 nursing facility. In order to implement the preadmission review  
138 requirements of this section, and to identify applicants for admission  
139 who may have mental retardation or have conditions related to mental  
140 retardation and subject to the requirements of this section, nursing  
141 facilities may not admit any individual irrespective of source of  
142 payment, unless an identification screen developed, or in the case of  
143 out-of-state residents approved, by the Department of Social Services  
144 has been completed for the applicant and filed in accordance with  
145 federal law.]

146 (b) A nursing facility may not admit any person, irrespective of  
147 source of payment, unless an initial identification screen developed, or  
148 in the case of out-of-state residents approved, by the Department of  
149 Social Services to identify whether such person may be mentally  
150 retarded or have a condition related to mental retardation has been  
151 completed and filed in accordance with federal law. A nursing facility  
152 shall not admit any applicant to the nursing facility who is initially  
153 identified as being mentally retarded or having a condition related to  
154 mental retardation, irrespective of source of payment, unless: (1) Such  
155 applicant has undergone a second preadmission screening process by  
156 which the Department of Mental Retardation determines whether the  
157 applicant is mentally retarded or has a condition of mental retardation,  
158 based upon an independent physical and mental evaluation performed  
159 by or under the auspices of the Department of Social Services, and, if  
160 so, whether such person requires the level of services provided by a  
161 nursing facility and, if such person is mentally retarded or has a  
162 condition of mental retardation and does require such level of services,  
163 whether the person requires specialized services, (2) the nursing  
164 facility has been provided with a copy of the second preadmission  
165 screening, and (3) the administrator of the nursing facility, in  
166 consultation with the medical director, director of nursing and the  
167 director of admissions for the nursing facility completes a written  
168 determination of whether the nursing facility has appropriate physical  
169 and program space, trained staff and programming to provide for the  
170 care and safety of such person and other residents of the nursing  
171 home. A person who is determined to be mentally retarded or have a  
172 condition related to mental retardation and not to require nursing  
173 facility level services shall not be admitted to a nursing facility.

174 (c) The Commissioner of Mental Retardation, after consultation with  
175 the Commissioner of Public Health, shall develop a recommended  
176 curriculum guide and continued training syllabus for trained staff.

177 [(c)] (d) No payment from any source shall be due to a nursing  
178 facility that admits a resident in violation of the preadmission

179 screening requirements of this section.

180       ~~[(d)]~~ (e) A nursing facility shall notify the Department of Mental  
181 Retardation when a resident who has mental retardation undergoes a  
182 change in condition or when a resident who has not previously been  
183 diagnosed as having mental retardation undergoes a significant  
184 change in condition which may require specialized services. The  
185 notification provided by the nursing facility to the Department of  
186 Mental Retardation shall include information on whether the nursing  
187 facility has the appropriate physical and program space, trained staff  
188 and programming to continue to meet such resident's individualized  
189 needs. Upon such notification, the Department of Mental Retardation,  
190 under the auspices of the Department of Social Services, shall perform  
191 an evaluation to determine whether the resident requires the level of  
192 services provided by a nursing facility or requires specialized services  
193 for mental retardation.

194       ~~[(e)]~~ (f) In the case of a resident who is determined under subsection  
195 ~~[(d)]~~ (e) of this section not to require the level of services provided by a  
196 nursing facility but to require specialized services for mental  
197 retardation or a condition related to mental retardation and who has  
198 continually resided in a nursing facility for at least thirty months  
199 before the date of the determination, the resident may elect to remain  
200 in the facility or to receive services covered by Medicaid in an  
201 alternative appropriate institutional or noninstitutional setting in  
202 accordance with the terms of the alternative disposition plan  
203 submitted by the Department of Social Services and approved by the  
204 Secretary of the United States Department of Health and Human  
205 Services.

206       ~~[(f)]~~ (g) In the case of a resident with mental retardation or a related  
207 condition who is determined under subsection ~~[(d)]~~ (e) of this section  
208 not to require the level of services provided by a nursing facility but to  
209 require specialized services for mental retardation or the related  
210 condition and who has not continuously resided in a nursing facility

211 for at least thirty months before the date of the determination, the  
212 nursing facility in consultation with the Department of Mental  
213 Retardation shall arrange for the safe and orderly discharge of the  
214 resident from the facility. If the department determines that the  
215 provision of specialized services requires an alternative residential  
216 placement, the discharge and transfer of the patient shall be in  
217 accordance with the alternative disposition plan submitted by the  
218 Department of Social Services and approved by the Secretary of the  
219 United States Department of Health and Human Services, except if an  
220 alternative residential facility is not available, the resident shall not be  
221 transferred.

222 ~~[(g)]~~ (h) In the case of a resident who is determined under  
223 subsection ~~[(d)]~~ (e) of this section not to require the level of services  
224 provided by a nursing facility and not to require specialized services,  
225 the nursing facility shall arrange for the safe and orderly discharge of  
226 the resident from the facility.

227 ~~[(h)]~~ (i) The Department of Mental Retardation shall be the agency  
228 responsible for making the determinations required by this section on  
229 behalf of individuals who have mental retardation and on behalf of  
230 individuals with conditions related to mental retardation and may  
231 provide services to such individuals to the extent required by federal  
232 law.

233 ~~[(i)]~~ (j) Any person seeking admittance to a nursing facility or any  
234 resident of a nursing facility who is adversely affected by a  
235 determination of the Department of Mental Retardation under this  
236 section may appeal such determination to the Department of Social  
237 Services ~~[within]~~ no later than fifteen days ~~[of]~~ after the receipt of the  
238 notice of a determination by the Department of Mental Retardation. If  
239 an appeal is taken to the Department of Social Services, the  
240 determination of the Department of Mental Retardation shall be stayed  
241 pending determination by the Department of Social Services.

242 Sec. 3. (NEW) (*Effective October 1, 2005*) The Commissioner of Social

243 Services, after consultation with the Commissioner of Mental Health  
244 and Addiction Services, shall amend the Pre-Admission Level II  
245 Evaluation Form required under federal law to incorporate any  
246 relevant criteria developed by the Commissioner of Mental Health and  
247 Addiction Services regarding the high risk behavior of patients to be  
248 evaluated.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	17b-359
Sec. 2	<i>October 1, 2005</i>	17b-360
Sec. 3	<i>October 1, 2005</i>	New section

**Statement of Purpose:**

To revise procedures concerning the admission and care of nursing home patients with mental illness or mental retardation.

*[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.]*

Co-Sponsors: SEN. PRAGUE, 19th Dist.

S.B. 64