



Senate

General Assembly

File No. 438

January Session, 2007

Substitute Senate Bill No. 116

Senate, April 11, 2007

The Committee on Public Health reported through SEN. HANDLEY of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING OVERSIGHT OF ASSISTED LIVING RESIDENCES BY THE DEPARTMENT OF PUBLIC HEALTH.

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

1 Section 1. (NEW) (*Effective October 1, 2007*) As used in sections 1 to
2 10, inclusive, of this act:

3 (1) "Activities of daily living" means activities or tasks, that are
4 essential for a person's healthful and safe existence, including, but not
5 limited to, bathing, dressing, grooming, eating, meal preparation,
6 shopping, housekeeping, transfers, bowel and bladder care, laundry,
7 communication, self-administration of medication, ambulation and use
8 of transportation.

9 (2) "Assisted living services" means nursing services and assistance
10 with activities of daily living provided to residents living within an
11 assisted living residence having supportive services that encourage
12 persons primarily fifty-five years of age or older to maintain a
13 maximum level of independence.

14 (3) "Assisted living services agency" means an entity, licensed by the
15 Department of Public Health pursuant to chapter 368v of the general
16 statutes that provides, among other things, nursing services and
17 assistance with activities of daily living to a population that is chronic
18 and stable.

19 (4) "Assisted living residence" means a for-profit or not-for-profit
20 facility consisting of private residential units that provides a managed
21 group living environment consisting of housing and services for
22 persons who are primarily fifty-five years of age or older. "Assisted
23 living residence" does not include any state-funded congregate
24 housing facilities.

25 (5) "Department" means the Department of Public Health.

26 (6) "Private residential unit" means a private living environment
27 designed for use and occupancy by a resident within an assisted living
28 residence that includes a full bathroom and access to facilities and
29 equipment for the preparation and storage of food.

30 (7) "Resident" means a person residing in a private residential unit
31 of an assisted living residence pursuant to the terms of a written
32 agreement for occupancy of such unit.

33 (8) "Supervised self-administration of medication management"
34 means assistance provided to residents in taking medications that
35 includes: Reminding residents to take medications at scheduled
36 intervals, opening of medication containers and prepackaged
37 medications for residents, observation of residents while taking
38 medications and verification that residents are taking prescribed doses
39 of medication.

40 (9) "Service plan" means a written document provided and
41 maintained by an assisted living residence for each resident that: (A) Is
42 developed at the time a resident commences occupancy at the assisted
43 living residence, (B) affords each resident, and any representative of
44 such resident, the opportunity to consult and thereafter reduce to

45 writing the specific scope, type and frequency of services that the
46 resident will receive while residing at the assisted living residence, and
47 (C) is periodically reviewed by both the resident, resident's
48 representative, if any, and a representative of the assisted living
49 residence to ensure that the service plan meets the current needs of the
50 resident, and if not, revised accordingly to meet the current needs of
51 the resident.

52 Sec. 2. (NEW) (*Effective October 1, 2007*) (a) All assisted living
53 residences operating in the state shall:

54 (1) Provide a written residency agreement to each resident in
55 accordance with section 8 of this act;

56 (2) Afford residents the ability to access services provided by an
57 assisted living services agency. Such services shall be provided in
58 accordance with a service plan pursuant to section 7 of this act, that
59 includes, but is not limited to, supervised self-administration of
60 medication management services;

61 (3) Coordinate, in accordance with a service plan, the delivery of
62 services provided by an assisted living services agency to residents;

63 (4) Upon the request of a resident, arrange for the provision of
64 ancillary medical services on behalf of a resident, including physician
65 and dental services, pharmacy services, restorative physical therapies,
66 podiatry services, hospice care and home health aide services,
67 provided the ancillary medical services are not administered by
68 employees of the assisted living residence, unless the resident chooses
69 to receive such services;

70 (5) Maintain, as part of the service plan, written reports on each
71 resident who receives services from an assisted living services agency,
72 which at a minimum describe the type and scope of services rendered,
73 as well as the general status of such resident's health;

74 (6) Provide a formally established security program for the
75 protection and safety of residents that is designed to protect residents

76 from intruders;

77 (7) Afford residents the rights and privileges guaranteed under title
78 47a of the general statutes;

79 (8) Comply with the provisions of subsection (c) of section 19-13-
80 D105 of the regulations of Connecticut state agencies; and

81 (9) Be subject to oversight and regulation by the Department of
82 Public Health.

83 (b) No assisted living residence shall control or manage the financial
84 affairs or personal property of any resident.

85 Sec. 3. (NEW) (*Effective October 1, 2007*) The department shall receive
86 and investigate any complaint alleging that an assisted living residence
87 is engaging in, or has engaged in activities, practices or omissions that
88 would constitute a violation of sections 1 to 9, inclusive, of this act, the
89 regulations adopted pursuant to section 9 of this act, or any other
90 regulation applicable to assisted living residences, including the Public
91 Health Code. The department shall include in its biennial review of an
92 assisted living residence, conducted in accordance with section 4 of
93 this act, the nature and type of any complaint received concerning the
94 assisted living residence, as well as the department's final
95 determination made with respect to such complaint.

96 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) The department, or an
97 authorized designee of the department, shall conduct biennial reviews
98 of all assisted living residences. Biennial reviews conducted by the
99 department in accordance with the provisions of this section, shall be
100 in addition to, and not in lieu of, any inspections of such residences by
101 state or local officials to ensure compliance with the Public Health
102 Code, the State Building Code, the State Fire Code or any local zoning
103 ordinance. An authorized designee shall not be an employee or agent
104 of the assisted living residence. In addition to the biennial review, the
105 department, or an authorized designee, may conduct at any time a
106 review of an assisted living residence when the department has

107 probable cause to believe that an assisted living residence is operating
108 in violation of the provisions of sections 1 to 9, inclusive, of this act, the
109 regulations adopted pursuant to section 9 of this act, or any other
110 regulation applicable to assisted living residences, including the Public
111 Health Code. The purpose of any such review shall be to ensure that
112 an assisted living residence is operating in compliance with the
113 provisions of sections 1 to 9, inclusive, of this act, the regulations
114 adopted pursuant to section 9 of this act or any other regulation
115 applicable to assisted living residences, including the Public Health
116 Code. Any such review may include: (1) An inspection of all common
117 areas of the assisted living residence, including any common kitchen
118 or meal preparation area located within the residence; (2) an inspection
119 of a private residential unit, but only if prior to such inspection the
120 resident occupying such unit provides written consent to the
121 inspection; and (3) an examination of the resident's service plan and
122 any written reports maintained as part of the service plan, but only if
123 prior to such an examination the resident provides written consent to
124 the examination. In the course of conducting such a review, an
125 inspector may interview any manager, staff member or resident of the
126 assisted living residence. Interviews with any resident shall be
127 confidential and conducted privately.

128 (b) Not later than fourteen days after the completion of any review
129 conducted in accordance with subsection (a) of this section, the
130 department shall prepare a written report summarizing all pertinent
131 information obtained during the review. The department's written
132 report shall not disclose confidential, private, proprietary or privileged
133 information obtained in connection with such review. Not later than
134 seven days after the completion date of the written report, the
135 department shall provide the assisted living residence with a copy of
136 the report. If the written report from the department contains a
137 determination that the assisted living residence is not in compliance
138 with the requirements of the provisions of sections 1 to 9, inclusive, of
139 this act, the regulations adopted pursuant to section 9 of this act or any
140 other regulation applicable to assisted living residences, including the
141 Public Health Code, the department shall set forth with particularity

142 all facts and circumstances relied upon by the department in making
143 such a determination. The assisted living residence may submit a
144 written response to the department's report not later than ten days
145 after the receipt of the report. The department shall establish an
146 administrative procedure for resolving disputes regarding findings of
147 noncompliance prior to the department taking any final remedial
148 action. Remedial actions available to the department shall include, but
149 not be limited to, the imposition of a civil penalty against an assisted
150 living residence in an amount not to exceed five thousand dollars. The
151 department shall maintain and make available for public inspection all
152 completed reports, responses from assisted living residences and
153 notices of final action compiled in accordance with the provisions of
154 this section.

155 (c) Upon the failure of an assisted living residence to comply with
156 remedial actions prescribed by the department, the Attorney General,
157 at the request of the Commissioner of Public Health, may apply in the
158 name of the state of Connecticut to the Superior Court for an order
159 temporarily or permanently restraining and enjoining an assisted
160 living residence from continuing to do business in the state.

161 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) An assisted living
162 residence shall have a written bill of rights that prescribes the rights
163 afforded to each resident of the residence. A designated staff person
164 from the assisted living residence shall provide and explain the bill of
165 rights to the resident at the time that such resident enters into a
166 residency agreement at the assisted living residence. The bill of rights
167 shall include, but not be limited to, that each resident has the right to:

168 (1) Live in a clean, safe and habitable private residential unit;

169 (2) Be treated with consideration, respect and due recognition of
170 personal dignity, individuality and the need for privacy;

171 (3) Privacy within a private residential unit, subject to rules of the
172 assisted living residence reasonably designed to promote the health,
173 safety and welfare of the resident;

174 (4) Retain and use one's own personal property within a private
175 residential unit so as to maintain individuality and personal dignity
176 provided the use of personal property does not infringe on the rights
177 of other residents;

178 (5) Private communications, including receiving and sending
179 unopened correspondence, telephone access and visiting with persons
180 of one's choice;

181 (6) Freedom to participate in and benefit from community services
182 and activities so as to achieve the highest possible level of
183 independence, autonomy and interaction within the community;

184 (7) Directly engage or contract with licensed health care
185 professionals and providers of one's choice to obtain necessary health
186 care services in one's private residential unit, or such other space in the
187 assisted living residence as may be made available to residents for
188 such purposes;

189 (8) Manage one's own financial affairs;

190 (9) Exercise civil and religious liberties;

191 (10) Present grievances and recommend changes in policies,
192 procedures and services to the manager or staff of the assisted living
193 residence, government officials or any other person without restraint,
194 interference, coercion, discrimination or reprisal from the assisted
195 living residence, including access to representatives of the department
196 or the Office of the Long-Term Care Ombudsman;

197 (11) Upon request, obtain from the assisted living residence the
198 name of the service coordinator or any other persons responsible for
199 resident care or the coordination of resident care;

200 (12) Confidential treatment of all records and communications to
201 the extent provided by state and federal law;

202 (13) Have all reasonable requests responded to promptly and

203 adequately within the capacity of the residence;

204 (14) Be fully advised of the relationship that the assisted living
205 residence has with any assisted living services agency, health care
206 facility or educational institution to the extent that such relationship
207 relates to resident medical care or treatment and to receive an
208 explanation about the relationship;

209 (15) Receive a copy of any rules or regulations of the residence;

210 (16) Privacy when receiving medical treatment or other services
211 within the capacity of the residence;

212 (17) Informed consent to the extent allowed by law;

213 (18) All rights and privileges afforded to tenants under title 47a of
214 the general statutes; and

215 (19) Refuse assistance with or supervision of the activities of daily
216 living.

217 (b) An assisted living residence shall post in a prominent place in
218 the assisted living residence the resident's bill of rights, including those
219 rights set forth in subsection (a) of this section. The posting of the
220 resident's bill of rights shall include contact information for the
221 Department of Public Health and the Office of the State Long-Term
222 Care Ombudsman, including the names, addresses and telephone
223 numbers of persons within such agencies who handle questions,
224 comments or complaints concerning assisted living residences.

225 Sec. 6. (NEW) (*Effective October 1, 2007*) No assisted living residence
226 shall enter into a written residency agreement with any individual
227 who requires twenty-four hour skilled nursing care, unless such
228 individual establishes to the satisfaction of the residence that the
229 individual has, or has arranged for, such twenty-four hour care.

230 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) An assisted living
231 residence, after consultation with the resident, shall develop and

232 maintain an individualized service plan for the resident describing in
233 lay terms the needs of the resident for assisted living services, if any,
234 the providers or intended providers of needed services, and the scope,
235 type and frequency of such services, and any other information as the
236 department may require. The service plan shall be confidential, signed
237 by the resident and a service coordinator of the assisted living
238 residence and available for inspection by the resident and the
239 department.

240 (b) An assisted living residence shall designate a qualified service
241 coordinator to prepare, review and revise the service plan for each
242 resident. Such service coordinator shall determine if the services
243 provided to the resident are meeting the needs of the resident. In any
244 case where a resident of an assisted living residence receives services
245 from an assisted living services agency, the service coordinator of the
246 facility shall consult with the supervisor of the assisted living services
247 agency to ensure that the service plan meets the individual needs of
248 the resident.

249 (c) An assisted living residence shall maintain written policies and
250 procedures for the initial evaluation and annual reassessment of the
251 functional and health status and service requirements of each resident.

252 Sec. 8. (NEW) (*Effective October 1, 2007*) An assisted living residence
253 shall enter into a written residency agreement with each resident that
254 clearly sets forth the rights and responsibilities of the resident and the
255 assisted living residence, including the duties set forth in section 19a-
256 562 of the general statutes. The residency agreement shall be signed by
257 the assisted living residence's authorized agent and by the resident
258 prior to the resident taking possession of a private residential unit and
259 shall include, at a minimum:

260 (1) An itemization of assisted living services, transportation
261 schedules and services, recreation services and any other services and
262 goods, lodging and meals to be provided on behalf of the resident by
263 the assisted living residence;

264 (2) A full and fair disclosure of all charges, fees, expenses and costs
265 to be borne by the resident;

266 (3) A schedule of payments and disclosure of all late fees or
267 potential penalties;

268 (4) The grievance procedure with respect to enforcement of the
269 terms of the residency agreement;

270 (5) The assisted living residence's covenant to comply with all
271 municipal, state and federal laws and regulations regarding consumer
272 protection and protection from financial exploitation;

273 (6) The assisted living residence's covenant to afford residents all
274 rights and privileges afforded under title 47a of the general statutes;

275 (7) The conditions under which the agreement can be terminated by
276 either party;

277 (8) Full disclosure of the rights and responsibilities of the resident
278 and the assisted living facility in situations involving serious
279 deterioration in the health of the resident, hospitalization of the
280 resident or death of the resident, including a provision that specifies
281 that in the event that a resident of the facility dies, the estate or family
282 of such resident shall only be responsible for further payment to the
283 residence for a period of time not to exceed fifteen days following the
284 date of death of such resident as long as the private residential unit
285 formerly occupied by the resident has been vacated; and

286 (9) Rules of the assisted living residence reasonably designed to
287 promote the health, safety and welfare of residents.

288 Sec. 9. (NEW) (*Effective October 1, 2007*) (a) An assisted living
289 residence shall meet the requirements of all applicable federal and
290 state laws and regulations, including, but not limited to, the Public
291 Health Code, State Building Code and the State Fire Safety Code, and
292 federal and state laws and regulations governing handicapped
293 accessibility. Assisted living residences shall be classified as residential

294 uses for the purposes of the State Building Code or a municipal
295 building code and shall be subject to health, safety and fire code
296 regulations for residential dwellings.

297 (b) The Commissioner of Public Health shall adopt regulations, in
298 accordance with chapter 54 of the general statutes, to carry out the
299 provisions of sections 1 to 9, inclusive, of this act.

300 Sec. 10. (*Effective October 1, 2007*) In adopting regulations pursuant
301 to subsection (b) of section 9 of this act, the Commissioner of Public
302 Health shall repeal the definition of "managed residential community"
303 in section 19-13-D105(a)(13) of the regulations of Connecticut state
304 agencies and shall add the definition of "assisted living residence" as
305 provided in section 1 of this act.

306 Sec. 11. Subsection (e) of section 8-206e of the general statutes is
307 repealed and the following is substituted in lieu thereof (*Effective*
308 *October 1, 2007*):

309 (e) The Commissioner of Economic and Community Development
310 shall establish criteria for making disbursements under the provisions
311 of subsection (d) of this section which shall include, but are not limited
312 to: (1) Size of the United States Department of Housing and Urban
313 Development, Section 202 and Section 236 elderly housing
314 developments; (2) geographic locations in which the developments are
315 located; (3) anticipated social and health value to the resident
316 population; (4) each Section 202 and Section 236 housing
317 development's designation as [a managed residential community] an
318 assisted living residence, as defined in section [19-13-D105 of the
319 regulations of Connecticut state agencies] 1 of this act; and (5) the
320 potential community development benefit to the relevant municipality.
321 Such criteria may specify who may apply for grants, the geographic
322 locations determined to be eligible for grants, and the eligible costs for
323 which a grant may be made. For the purposes of the demonstration
324 program, multiple properties with overlapping board membership or
325 ownership may be considered a single applicant.

326 Sec. 12. Subsection (a) of section 17b-365 of the general statutes is
327 repealed and the following is substituted in lieu thereof (*Effective*
328 *October 1, 2007*):

329 (a) The Commissioner of Social Services may, within available
330 appropriations, establish and operate a pilot program to allow
331 individuals to receive assisted living services, provided by an assisted
332 living services agency licensed by the Department of Public Health in
333 accordance with chapter 368v. In order to be eligible for the program,
334 an individual shall: (1) Reside in [a managed residential community]
335 an assisted living residence, as defined [by the regulations of the
336 Department of Public Health] in section 1 of this act; (2) be ineligible to
337 receive assisted living services under any other assisted living pilot
338 program established by the General Assembly; and (3) be eligible for
339 services under the Medicaid waiver portion of the Connecticut home-
340 care program for the elderly established under section 17b-342. The
341 total number of individuals enrolled in said pilot program, when
342 combined with the total number of individuals enrolled in the pilot
343 program established pursuant to section 17b-366, as amended by this
344 act, shall not exceed seventy-five individuals. The Commissioner of
345 Social Services shall operate said pilot program in accordance with the
346 Medicaid rules established pursuant to 42 USC 1396p(c), as from time
347 to time amended.

348 Sec. 13. Subsection (a) of section 17b-366 of the general statutes is
349 repealed and the following is substituted in lieu thereof (*Effective*
350 *October 1, 2007*):

351 (a) The Commissioner of Social Services may, within available
352 appropriations, establish and operate a pilot program to allow
353 individuals to receive assisted living services, provided by an assisted
354 living services agency licensed by the Department of Public Health, in
355 accordance with chapter 368v. In order to be eligible for the pilot
356 program, an individual shall: (1) Reside in [a managed residential
357 community] an assisted living residence, as defined [by the regulations
358 of the Department of Public Health] in section 1 of this act; (2) be

359 ineligible to receive assisted living services under any other assisted
360 living pilot program established by the General Assembly; and (3) be
361 eligible for services under the state-funded portion of the Connecticut
362 home-care program for the elderly established under section 17b-342.
363 The total number of individuals enrolled in said pilot program, when
364 combined with the total number of individuals enrolled in the pilot
365 program established pursuant to section 17b-365, shall not exceed
366 seventy-five individuals. The Commissioner of Social Services shall
367 operate said pilot program in accordance with the Medicaid rules
368 established pursuant to 42 USC 1396p(c), as from time to time
369 amended.

370 Sec. 14. Subsections (a) and (b) of section 17b-417 of the general
371 statutes are repealed and the following is substituted in lieu thereof
372 (*Effective October 1, 2007*):

373 (a) The Office of the Long-Term Care Ombudsman shall develop
374 and implement a pilot program, within available appropriations, to
375 provide assistance and education to residents of [managed residential
376 communities] assisted living residences, as defined in section [19-13-
377 D105 of the regulations of Connecticut state agencies] 1 of this act, who
378 receive assisted living services from an assisted living services agency
379 licensed by the Department of Public Health in accordance with
380 chapter 368v. The assistance and education provided under such pilot
381 program shall include, but not be limited to: (1) Assistance and
382 education for residents who are temporarily discharged to a hospital
383 or long-term care facility and return to [a managed residential
384 community] an assisted living residence; (2) assistance and education
385 for residents with issues relating to an admissions contract for [a
386 managed residential community] an assisted living residence; and (3)
387 assistance and education for residents to assure adequate and
388 appropriate services are being provided including, but not limited to,
389 adequate and appropriate services for individuals with cognitive
390 impairments.

391 (b) The Office of the Long-Term Care Ombudsman shall develop

392 and implement the pilot program in cooperation with [managed
393 residential communities] assisted living residences and assisted living
394 services agencies. Priority of assistance and education shall be given to
395 residents of [managed residential communities] assisted living
396 residences who participate in subsidized assisted living programs
397 authorized under sections 8-206e, as amended by this act, 17b-347e,
398 17b-365, as amended by this act, 17b-366, as amended by this act, and
399 19a-6c. To the extent allowed by available appropriations, the Long-
400 Term Care Ombudsman shall also provide assistance and education
401 under the pilot program to residents in [managed residential
402 communities] assisted living residences who do not participate in said
403 subsidized assisted living programs.

404 Sec. 15. Section 19a-6c of the general statutes is repealed and the
405 following is substituted in lieu thereof (*Effective October 1, 2007*):

406 (a) The Commissioner of Public Health shall allow state-funded
407 congregate housing facilities to provide assisted living services
408 through licensed assisted living services agencies, as defined in section
409 19a-490.

410 (b) In order to facilitate the development of assisted living services
411 in state-funded congregate housing facilities, the Commissioner of
412 Public Health may waive any provision of the regulations for assisted
413 living services agencies, as defined in section 19a-490, which provide
414 services in state-funded congregate housing facilities. No waiver of
415 such regulations shall be made if the commissioner determines that the
416 waiver would: (1) Endanger the life, safety or health of any resident
417 receiving assisted living services in a state-funded congregate housing
418 facility; (2) impact the quality or provision of services provided to a
419 resident in a state-funded congregate housing facility; (3) revise or
420 eliminate the requirements for an assisted living services agency's
421 quality assurance program; (4) revise or eliminate the requirements for
422 an assisted living services agency's grievance and appeals process; or
423 (5) revise or eliminate the assisted living services agency's
424 requirements relative to a client's bill of rights and responsibilities. The

425 commissioner, upon the granting of a waiver of any provision of such
 426 regulations, may impose conditions which assure the health, safety
 427 and welfare of residents receiving assisted living services in a state-
 428 funded congregate housing facility. The commissioner may revoke
 429 such a waiver upon a finding (A) that the health, safety or welfare of
 430 any such resident is jeopardized, or (B) that such facility has failed to
 431 comply with such conditions as the commissioner may impose
 432 pursuant to this subsection.

433 (c) The provisions of sections 1 to 9, inclusive, of this act shall not
 434 apply to any state-funded congregate housing facility.

435 [(c)] (d) The Commissioner of Public Health may adopt regulations,
 436 in accordance with the provisions of chapter 54, to implement the
 437 provisions of this section. Said commissioner may implement the
 438 waiver of provisions as specified in subsection (b) of this section until
 439 January 1, 2002, while in the process of adopting criteria for the waiver
 440 process in regulation form, provided notice of intent to adopt the
 441 regulations is published in the Connecticut Law Journal within twenty
 442 days after implementation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	New section
Sec. 2	October 1, 2007	New section
Sec. 3	October 1, 2007	New section
Sec. 4	October 1, 2007	New section
Sec. 5	October 1, 2007	New section
Sec. 6	October 1, 2007	New section
Sec. 7	October 1, 2007	New section
Sec. 8	October 1, 2007	New section
Sec. 9	October 1, 2007	New section
Sec. 10	October 1, 2007	New section
Sec. 11	October 1, 2007	8-206e(e)
Sec. 12	October 1, 2007	17b-365(a)
Sec. 13	October 1, 2007	17b-366(a)
Sec. 14	October 1, 2007	17b-417(a) and (b)
Sec. 15	October 1, 2007	19a-6c

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Public Health, Dept.	GF - Cost	See Below	See Below
Social Services, Dept.	GF - Cost	See Below	See Below
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The Department of Public Health will incur costs associated with additional staffing required to implement regulation of assisted living residences¹. In the first full year of implementation, costs of \$135,700 will be incurred to support the salaries of one Nurse Consultant, one Office Assistant and a ¼ time Processing Technician needed to commence biennial licensure inspections, prepare written reports, investigate complaints and pursue disciplinary actions when warranted. In the second year of implementation these costs would fall to \$132,000 to reflect the one-time nature of equipment costs. (Fringe benefits costs of \$32,760 in year 1 and 76,450 in year 2 would also be incurred².)

¹ There are currently 110 registered managed residential communities in Connecticut.

² The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

The timing of these costs is uncertain. Adoption of required regulations would be expected no earlier than Spring 2008. It is anticipated that the department will not commence inspections without finalized regulations. Therefore, costs would likely not be incurred until late FY 08, at the earliest, and may in fact be delayed until future fiscal years.

The Office of the Attorney General could perform its duties under Section 4 of the bill without requiring additional staffing. Any expenses incurred to litigate these matters are anticipated to be minimal, and would be passed on to the Department of Public Health.

Should the implementation of the new regulatory program increase the cost of assisted living operations and/or result in fewer assisted living slots being available statewide, Medicaid may realize increased utilization of more expensive nursing home services. Currently, the Department of Social Services spends an average of \$78,000 annually.

A potential revenue gain to the state would result, to the extent that civil penalties of up to \$5,000 are assessed upon residences found to be non-compliant with the bill's provisions.

No funding has been included within HB 7077 (the Governor's Proposed FY 08-09 Biennial Budget) for purposes of this bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 116*****AN ACT CONCERNING OVERSIGHT OF ASSISTED LIVING RESIDENCES BY THE DEPARTMENT OF PUBLIC HEALTH.*****SUMMARY:**

Currently, the Department of Public Health (DPH) licenses assisted living services agencies (ALSAs), which provide nursing services and other assistance with activities of daily living to elderly people at assisted living facilities. The facilities (buildings) where the ALSAs provide these services are not licensed by DPH, but they must meet certain regulatory qualifications to be defined as a “managed residential community,” which is the only type of location where an ALSA is allowed to provide its services.

This bill places additional requirements on the facility and renames it from “managed residential community” (MRC) to “assisted living residence.” It delineates the assisted living residence’s duties; requires it to provide each resident with a written bill of rights and residency agreement; specifies what must be in these documents; and requires the residence to create a service plan for each resident prepared, reviewed, and revised by the residence’s service coordinator. It also requires the residence to comply with applicable state and federal laws and regulations.

It requires DPH to review each residence every two years and at other times if it has probable cause to believe the residence has violated the bill’s requirements. It (1) specifies what these reviews may include and prescribes procedures for reporting the review results, (2) requires DPH to establish administrative procedures for resolving disputes about the findings, and (3) allows DPH to take remedial actions, including imposing a civil penalty of up to \$5,000 per violation, on the residence.

The bill makes other changes in the residence’s duties and

responsibilities and makes conforming and technical changes in other statutes.

EFFECTIVE DATE: October 1, 2007

DEFINITIONS (§ 1)

The bill defines certain terms it uses.

Under the bill, “activities of daily living,” means activities or tasks that are essential for a person’s healthful and safe existence, including bathing, dressing, grooming, eating, preparing meals, shopping, housekeeping, transferring from a bed to a chair, bowel and bladder care, washing clothes, communicating, self-administering medication, ambulating, and using transportation.

It also defines:

1. “assisted living services” as nursing services and help with activities of daily living provided to residents in an assisted living residence having supportive services that encourage people primarily age 55 and older to maintain a maximum level of independence;
2. “assisted living services agency” as an entity licensed by DPH that provides, among other things, nursing services and help with activities of daily living to a population that is chronic and stable;
3. “assisted living residence” as a for-profit or not-for-profit facility consisting of private residential units that provides a managed group living environment consisting of housing and services for people who are primarily age 55 and over (but specifically excluding state-funded congregate housing facilities);
4. “private residential unit” as a private living environment designed for use and occupancy by a resident in an assisted living residence that includes a full bathroom and access to

facilities and equipment for the preparation and storage of food;

5. “supervised self-administration of medication management” as assistance provided to residents in taking medications that includes reminding residents to take them at scheduled intervals, opening medication containers and prepackaged medications for residents, observing residents while they take medications, and verifying that they took the prescribed doses; and
6. “service plan” as a written document that an assisted living residence provides to and maintains for each resident that (a) is developed when the resident begins occupancy; (b) affords each resident and his or her representative the opportunity to consult and put in writing the specific scope, type, and frequency of services the resident will receive at the residence, and (c) is periodically reviewed by the resident, the representative, if any, and the residence’s representative to ensure that the plan meets the resident’s current needs and, if not, is revised accordingly.

ASSISTED LIVING RESIDENCES’ RESPONSIBILITIES (§ 2)

The bill requires all assisted living residences operating in the state to:

1. provide each resident with a written residency agreement;
2. enable residents to access services provided by an ALSA (the services must be provided in accordance with a service plan that includes supervised self-administration of medication management services);
3. coordinate the delivery of service an ALSA provides to residents, consistent with a service plan;
4. at the resident’s request, arrange for ancillary medical services, including physician, dental, and pharmacy services; restorative physical therapies; podiatry services; hospice care; and home

health aide services (the ancillary medical services may not be administered by the assisted living residence's employees unless the resident chooses to receive such services);

5. maintain, as part of the service plan, written reports on each resident receiving services from an ALSA, which at a minimum describe the type and scope of services rendered, as well as the general status of the resident's health;
6. provide a formal security program for the residents' protection and safety that is designed to protect them from intruders;
7. give the residents the rights and privileges granted under the state's landlord-tenant laws;
8. comply with the provisions currently established in DPH regulations for managed residential communities (Conn. Agencies Regs. § 19-13-D105); and
9. be subject to DPH oversight and regulation.

DPH REQUIRED TO RECEIVE COMPLAINTS (§ 3)

The bill requires DPH to receive and investigate any complaint that an assisted living residence is engaging in, or has engaged, in activities, practices, or omissions that violate the bill's provisions, the regulations DPH adopts under it, or any other regulations that apply to assisted living residences, including the Public Health Code. It also requires DPH to include in its biennial review of an assisted living residence (see below) a review of the nature and type of any complaints received, as well as DPH's final determination concerning it.

DPH REVIEWS OF ASSISTED LIVING RESIDENCES (§ 4)

The bill requires DPH or its authorized designee to conduct biennial reviews of all assisted living residences. An authorized designee cannot be the assisted living residence's employee or agent. These biennial reviews must be in addition to, not in lieu of, any inspections

by state or local officials to ensure a residence's compliance with the Public Health Code, State Building or Fire codes, or any local zoning ordinance.

In addition to the biennial review, the bill allows DPH or its designee to review a residence at any time it has probable cause to believe that the residence is violating the bill's requirements, regulations adopted under it, or any other applicable regulations, including the Public Health Code. The review's purpose must be to ensure that a residence is complying with the bill and the regulations. Under the bill, such a review may include:

1. an inspection of all of the residence's common areas, including any common kitchen or meal preparation area;
2. an inspection of a private residential unit, but only if the unit's occupant provides prior written consent to the inspection; and
3. an examination of any resident's service plan and written reports maintained as part of it, but only if the resident gives prior written consent.

The bill allows an inspector, in the course of conducting such a review to interview any manager, staff member, or resident of the residence. Interviews with residents must be confidential and conducted privately.

Not later than 14 days after completing any review DPH conducts, it must prepare a written report summarizing all pertinent information it has obtained during the review. The report must not disclose confidential, private, proprietary, or privileged information obtained in connection with the review.

Within seven days after the report's completion, DPH must provide the residence with a copy of the report. If the report contains a determination that the residence is not in compliance with the bill's requirements or specified regulations, DPH must set forth all the particular facts and circumstances it relied on in making the

determination. The residence may submit a written response to the report not later than 10 days after receiving it. DPH must establish an administrative procedure for resolving disputes about the findings of noncompliance before it takes any final remedial action.

The bill specifies that the department's remedial actions can include, but are not limited to, imposing a civil penalty of up to \$5,000 per violation on the residence. DPH must maintain and make available for public inspection all completed reports, the residences' responses, and notices of final action.

If a residence fails to comply with a remedial action DPH prescribes, the attorney general, at the DPH commissioner's request, can apply to the Superior Court for an order temporarily or permanently restraining and enjoining the residence from continuing to do business in the state.

BILL OF RIGHTS (§ 5)

The bill requires an assisted living residence to have a written bill of rights that prescribes the rights afforded to its residents. (The ALSA must already have a bill of rights under DPH regulations.) The residence must designate a staff person to provide and explain the bill of rights to residents when they enter into a residency agreement. The bill of rights must include each resident's right to:

1. live in a clean, safe, and habitable private residential unit;
2. be treated with consideration, respect, and due recognition of personal dignity, individuality, and the need for privacy.
3. privacy within a private residential unit, subject to the residence's rules reasonably designed to promote the resident's health, safety, and welfare;
4. keep and use one's own personal property in a private residential unit so as to maintain individuality and personal dignity, provided its use does not infringe on other

- residents' rights;
5. private communications, including receiving and sending unopened correspondence, telephone access, and visiting with people of one's choice;
 6. freedom to participate in and benefit from community services and activities so as to achieve the highest possible level of independence, autonomy, and interaction within the community;
 7. directly engage or contract with licensed health care professionals and providers of one's choice to obtain necessary health care services in one's private residential unit or in other space made available in the residence for such purposes;
 8. manage one's own financial affairs;
 9. exercise civil and religious liberties;
 10. present grievances and recommend changes in policy, procedures, and services to the residence's manager or staff, government officials, and anyone else without restraint, interference, coercion, discrimination, or reprisal from the residence, including access to representatives of DPH or the Office of the Long-Term Care Ombudsman;
 11. ask for and receive the name of the service coordinator or anyone else responsible for resident care or coordination of resident care;
 12. confidential treatment of all records and communications to the extent provided by state and federal law;
 13. have reasonable requests responded to promptly and adequately within the residence's capacity;
 14. be fully advised of the residence's relationship with an ALSA, health care facility, or educational institution to the extent that

the relationship relates to resident medical care or treatment and to receive an explanation about the relationship;

15. receive a copy of the any of the residence's rules and regulations;
16. privacy when receiving medical treatment;
17. informed consent to the extent allowed by law;
18. all rights and privileges afforded tenants under the state's landlord-tenant law; and
19. refuse assistance with or supervision of the activities of daily living.

The bill requires a residence to post the bill of rights in a prominent place in the residence. The posting must include contact information for DPH and the Office of the State Long-Term Care Ombudsman, including names, addresses, and telephone numbers of people in those agencies who handle questions, comments, and complaints about assisted living residences.

RESIDENCY AGREEMENT AND 24-HOUR SKILLED NURSING CARE (§ 6)

The bill prohibits a residence from entering into a written residency agreement with people who require 24-hour skilled nursing care unless they establish to the residence's satisfaction that they have, or have arranged for, such care.

INDIVIDUALIZED SERVICE PLAN AND RESIDENCE SERVICE COORDINATOR (§ 7)

The bill requires a residence, after consultation with the resident, to develop and maintain an individualized service plan for the resident describing in lay terms the individual's need for assisted living services, if any; the providers or intended providers of these services; their scope, type, and frequency; and other information DPH may require. The service plan must be confidential, signed by the resident and a residence's service coordinator. It must also be available for

inspection by the resident and DPH.

The bill requires the residence to designate a qualified service coordinator to prepare, review, and revise the service plan for each resident. The service coordinator must determine if the services provided are meeting the resident's needs. If the resident receives services from an ALSA, the service coordinator must consult with the ALSA's supervisor to ensure that the service plan meets the resident's individual needs. The residence must maintain written policies and procedures for residents' initial evaluation and annual reassessment of their functional and health status and service requirements.

Under current regulations, each managed residential community must employ an on-site service coordinator who has a human services background and prior supervisory or management experience. The coordinator's current responsibilities include making sure services are made available to the clients, helping tenants meet their needs, establishing collaborative relations with other service agencies and community resources, establishing a tenant council, serving as a liaison with the ALSA, and ensuring that a tenant information "system" is in place.

RESIDENCY AGREEMENT (§ 8)

The bill requires an assisted living residence to enter into a written residency agreement with each resident that clearly sets forth the resident's and the residence's rights and responsibilities, including rights under PA 06-195, which set requirements for facilities with Alzheimer's special care units or programs. The agreement must be signed by the residence's authorized agent and the resident before the resident takes possession of a private residential unit. It must include, at a minimum:

1. an itemization of assisted living services, transportation schedules and services, recreation services, and any other services, goods, lodging, and meals the residence will provide for the resident;

2. a full and fair disclosure of all charges, fees, expenses, and costs to be borne by the resident (including a schedule of payments and disclosure of all late fees or potential penalties);
3. the grievance procedure for enforcing the agreement's terms;
4. the residence's covenant to (a) comply with all municipal, state, and federal laws and regulations regarding consumer protection and protection from financial exploitation and (b) give residents all rights and privileges afforded them under the state's landlord-tenant laws;
5. the conditions under which either party can terminate the agreement;
6. full disclosure of the residence's and resident's rights and responsibilities in situations involving the resident's serious health deterioration, hospitalization, or death, including a provision stating that in the event of death, the residence's estate or family will only be responsible for payment to the residence for up to 15 days following the date of death as long as the unit has been vacated; and
7. the residence's rules reasonably designed to promote residents' health, safety, and welfare.

APPLICABILITY OF OTHER LAWS AND REGULATIONS AND COMMISSIONER'S AUTHORITY TO ADOPT REGULATIONS (§§ 9 AND 10)

The bill requires an assisted living residence to meet the requirements of all applicable federal and state laws and regulation, including the Public Health Code, State Building and Fire Safety codes, and federal and state laws and regulations governing handicapped accessibility. It also requires that assisted living residences must be classified as residential uses for purposes of the State Building Code or a municipal building code and must be subject to health, safety, and fire code regulations for residential dwellings.

The bill requires the DPH commissioner to adopt regulations to carry out its provisions. It requires the commissioner, in adopting these regulations, to repeal the regulatory definition of “managed residential community” and add one for “assisted living residence.”

ELDERLY CONGREGATE HOUSING EXEMPTION (§§ 11 TO 15)

The bill specifies that its provisions do not apply to any state-funded congregate housing facility and makes technical changes in other sections of statute for consistency with the provisions of this act.

BACKGROUND

Current Assisted Living Law and Regulations

Connecticut law does not currently use the term “assisted living facility” or “assisted living residence,” although people often informally refer to assisted living facilities (the buildings where people receive assisted living services). Instead, the state regulates ALSAs that provide the services at facilities that qualify as managed residential communities. Connecticut statute defines an ALSA as an institution that provides, among other things, nursing services and assistance with activities of daily living to a population that is chronic and stable (CGS § 19a-490).

Only a DPH-licensed ALSA can provide assisted living services and only at a “managed residential community” (MRC). MRCs are not licensed as such but must meet the DPH regulatory definition and provide certain core services, as well as meet other regulatory requirements. Core services must include:

1. three regularly scheduled meals per day,
2. regularly scheduled housekeeping and laundry service for personal laundry and linens,
3. regularly scheduled transportation for certain needs (public bus transportation does not qualify as the only mode of transportation),

4. maintenance service for the living units, and
5. social and recreational programs.

An MRC can be a number of different settings, such as apartments, continuing care retirement communities, or other structured settings as long as the facility itself provides the basic core services to qualify as an MRC. An MRC can either provide the ALSA services itself by becoming licensed as an ALSA or contract with a separate ALSA to provide the services.

Related Law

PA 06-195 requires assisted living facilities, as well as nursing homes and other types of facilities that have special Alzheimer's units, to make certain disclosures to consumers and to provide extra training to their staff.

Related Bills

sHB 7157 (File 118), reported favorably by the Public Health Committee and passed by the House, adds extra training for staff in Alzheimer's special care units or programs.

sHB 7163 makes technical changes to statutes about the special care units and adds ALSAs to the statutory list of licensed health care institutions.

COMMITTEE ACTION

Select Committee on Aging

Joint Favorable Substitute Change of Reference
 Yea 12 Nay 0 (03/06/2007)

Public Health Committee

Joint Favorable
 Yea 18 Nay 8 (03/23/2007)