



General Assembly

January Session, 2007

Committee Bill No. 116

LCO No. 4169

04169SB00116AGE

Referred to Committee on Select Committee on Aging

Introduced by:
(AGE)

**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.

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

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

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

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

37 (9) "Service plan" means a written document provided and
38 maintained by an assisted living residence for each resident that: (A) Is
39 developed at the time a resident commences occupancy at the assisted
40 living residence, (B) affords each resident, and any representative of
41 such resident, the opportunity to consult and thereafter reduce to
42 writing the specific scope, type and frequency of services that the
43 resident will receive while residing at the assisted living residence, and
44 (C) is periodically reviewed by both the resident, resident's

45 representative, if any, and a representative of the assisted living
46 residence to ensure that the service plan meets the current needs of the
47 resident, and if not, revised accordingly to meet the current needs of
48 the resident.

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

51 (1) Provide a written residency agreement to each resident, that is
52 signed by both an authorized representative of the assisted living
53 residence and the resident;

54 (2) Afford residents the ability to access services provided by an
55 assisted living services agency. Such services shall be developed in
56 accordance with a written service plan and include, but not be limited
57 to, self-administration of medication management services;

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

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

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

72 (6) Provide a formally established security program for the
73 protection and safety of residents that includes the presence of an on-
74 site security officer twenty-four hours a day;

75 (7) Afford residents the rights and privileges guaranteed under title
76 47a of the general statutes;

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

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

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

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

93 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) The department, or an
94 authorized designee of the department, shall conduct biennial reviews
95 of all assisted living residences. An authorized designee shall not be an
96 employee or agent of the assisted living residence. In addition to the
97 biennial review, the department, or an authorized designee, may
98 conduct at any time a review of an assisted living residence when the
99 department has probable cause to believe that an assisted living
100 residence is operating in violation of the provisions of sections 1 to 9,
101 inclusive, of this act, the regulations of the department concerning
102 assisted living residences or the Public Health Code. The purpose of
103 any such review shall be to ensure that an assisted living residence is
104 operating in compliance with the provisions of sections 1 to 9,
105 inclusive, of this act, the regulations of the department concerning

106 assisted living residences and the Public Health Code. Any such
107 review may include: (1) An inspection of all common areas of the
108 assisted living residence, including any common kitchen or meal
109 preparation area located within the residence; (2) an inspection of a
110 private residential unit, but only if prior to such inspection the resident
111 occupying such unit provides written consent to the inspection; and (3)
112 an examination of the resident's service plan and any written reports
113 maintained as part of the service plan, but only if prior to such an
114 examination the resident provides written consent to the examination.
115 In the course of conducting such a review, an inspector may interview
116 any manager, staff member or resident of the assisted living residence.
117 Interviews with any resident shall be confidential and conducted
118 privately.

119 (b) Not later than fourteen days after the completion of any review
120 conducted in accordance with subsection (a) of this section, the
121 department shall prepare a written report summarizing all pertinent
122 information obtained during the review. The department's written
123 report shall not disclose confidential, private, proprietary or privileged
124 information obtained in connection with such review. Not later than
125 seven days after the completion date of the written report, the
126 department shall provide the assisted living residence with a copy of
127 the report. If the written report from the department contains a
128 determination that the assisted living residence is not in compliance
129 with the requirements of the provisions of sections 1 to 9, inclusive, of
130 this act, the regulations of the department concerning assisted living
131 residences or the Public Health Code, the department shall set forth
132 with particularity all facts and circumstances relied upon by the
133 department in making such a determination. The assisted living
134 residence may submit a written response to the department's report
135 not later than ten days after the receipt of the report. The department
136 shall establish an administrative procedure for resolving disputes
137 regarding findings of noncompliance prior to the department taking
138 any final remedial action. Remedial actions available to the department
139 shall include, but not be limited to, the imposition of a civil penalty

140 against an assisted living residence in an amount not to exceed five
141 thousand dollars. The department shall maintain and make available
142 for public inspection all completed reports, responses from assisted
143 living residences and notices of final action compiled in accordance
144 with the provisions of this section.

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

151 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) An assisted living
152 residence shall have a written bill of rights and responsibilities that
153 prescribes the rights afforded to each resident of the residence. A
154 designated staff person from the assisted living residence shall provide
155 and explain the bill of rights to the resident at the time that such
156 resident enters into a residency agreement at the assisted living
157 residence. The bill of rights shall include, but not be limited to, that
158 each resident has the right to:

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

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

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

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

169 (5) Private communications, including receiving and sending

170 unopened correspondence, telephone access and visiting with persons
171 of one's choice;

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

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

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

181 (9) Exercise civil and religious liberties;

182 (10) Present grievances and recommend changes in policies,
183 procedures and services to the manager or staff of the assisted living
184 residence, government officials or any other person without restraint,
185 interference, coercion, discrimination or reprisal from the assisted
186 living residence, including access to representatives of the department
187 or the Office of the Long-Term Care Ombudsman;

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

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

193 (13) Have all reasonable requests responded to promptly and
194 adequately within the capacity of the residence;

195 (14) Be fully advised of the relationship that the assisted living
196 residence has with any assisted living services agency, health care
197 facility or educational institution to the extent that such relationship

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

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

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

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

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

206 (19) Refuse assistance with or supervision of the activities of daily
207 living.

208 (b) An assisted living residence shall post in a prominent place in
209 the assisted living residence the resident's bill of rights, including those
210 rights set forth in subsection (a) of this section. The posting of the
211 resident's bill of rights shall include contact information for the
212 Department of Public Health and the Office of the State Long-Term
213 Care Ombudsman, including the names, addresses and telephone
214 numbers of persons within such agencies who handle questions,
215 comments or complaints concerning assisted living residences.

216 Sec. 6. (NEW) (*Effective October 1, 2007*) (a) No assisted living
217 residence shall enter into a written residency agreement with any
218 individual who requires twenty-four hour skilled nursing supervision.

219 (b) A resident who, subsequent to entering into a written residency
220 agreement with an assisted living residence, is determined to require
221 twenty-four hour skilled nursing care shall not be allowed to continue
222 to reside in such residence unless the following conditions are met: (1)
223 The skilled nursing care is provided by a home health agency certified
224 under Title XVIII of the Social Security Act, as amended, or a licensed
225 registered nurse hired on a part-time, intermittent basis or by a
226 licensed hospice program; and (2) the resident is suffering from a

227 short-term illness for which recovery can be expected with not more
228 than ninety consecutive days of skilled nursing care or a medical
229 condition requiring skilled nursing care on a periodic, scheduled basis.
230 Such care may not be provided by assisted living residence staff.
231 Nursing services or hospice care services involving the injection of
232 insulin or other medications used routinely for maintenance therapy of
233 a disease may be provided to a resident without respect to such ninety-
234 day limitation.

235 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) An assisted living
236 residence, after consultation with the resident, shall develop and
237 maintain an individualized service plan for the resident describing in
238 lay terms the needs of the resident for assisted living services, if any,
239 the providers or intended providers of needed services, and the scope,
240 type and frequency of such services, and any other information as the
241 department may require. The service plan shall be confidential, in
242 writing, signed by the resident and a service coordinator of the assisted
243 living residence and available for inspection by the resident and the
244 department.

245 (b) An assisted living residence shall designate a qualified service
246 coordinator to prepare, review and revise the service plan for each
247 resident. Such service coordinator shall determine if the services
248 provided to the resident are meeting the needs of 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; and

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

283 Sec. 9. (NEW) (*Effective October 1, 2007*) An assisted living residence
284 shall meet the requirements of all applicable federal and state laws and
285 regulations, including, but not limited to, the Public Health Code, State
286 Building Code and the State Fire Safety Code, and federal and state

287 laws and regulations governing handicapped accessibility. Assisted
288 living residences shall be classified as residential uses for the purposes
289 of the State Building Code or a municipal building code and shall be
290 subject to health, safety and fire code regulations for residential
291 dwellings.

292 Sec. 10. (NEW) (*Effective October 1, 2007*) The Commissioner of
293 Public Health shall adopt regulations, in accordance with chapter 54 of
294 the general statutes, to carry out the provisions of sections 1 to 9,
295 inclusive, of this act. In adopting such regulations, the commissioner
296 shall repeal the definition of "managed residential community" in
297 section 19-13-D105(a)(13) of the regulations of Connecticut state
298 agencies and shall add the definition of "assisted living residence" as
299 provided in section 1 of this act.

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

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

319 ownership may be considered a single applicant.

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

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

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

345 (a) The Commissioner of Social Services may, within available
346 appropriations, establish and operate a pilot program to allow
347 individuals to receive assisted living services, provided by an assisted
348 living services agency licensed by the Department of Public Health, in
349 accordance with chapter 368v. In order to be eligible for the pilot
350 program, an individual shall: (1) Reside in [a managed residential

351 community] an assisted living residence, as defined [by the regulations
352 of the Department of Public Health] in section 1 of this act; (2) be
353 ineligible to receive assisted living services under any other assisted
354 living pilot program established by the General Assembly; and (3) be
355 eligible for services under the state-funded portion of the Connecticut
356 home-care program for the elderly established under section 17b-342.
357 The total number of individuals enrolled in said pilot program, when
358 combined with the total number of individuals enrolled in the pilot
359 program established pursuant to section 17b-365, shall not exceed
360 seventy-five individuals. The Commissioner of Social Services shall
361 operate said pilot program in accordance with the Medicaid rules
362 established pursuant to 42 USC 1396p(c), as from time to time
363 amended.

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

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

384 impairments.

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

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

Statement of Purpose:

To afford greater legal protections to persons residing in assisted living residences and to provide the Department of Public Health with improved oversight of such residences.

[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.; SEN. HANDLEY, 4th Dist.
SEN. DOYLE, 9th Dist.

S.B. 116