



General Assembly

**Substitute Bill No. 116**

January Session, 2007

\* \_\_\_\_\_SB00116AGEPH\_030607\_\_\_\_\_\*

**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, that is  
55 signed by both an authorized representative of the assisted living  
56 residence and the resident;

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

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

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

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

75 (6) Provide a formally established security program for the  
76 protection and safety of residents that is designed to protect residents  
77 from intruders;

78 (7) Afford residents the rights and privileges guaranteed under title

79 47a of the general statutes;

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

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

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

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

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

126 (b) Not later than fourteen days after the completion of any review  
127 conducted in accordance with subsection (a) of this section, the  
128 department shall prepare a written report summarizing all pertinent  
129 information obtained during the review. The department's written  
130 report shall not disclose confidential, private, proprietary or privileged  
131 information obtained in connection with such review. Not later than  
132 seven days after the completion date of the written report, the  
133 department shall provide the assisted living residence with a copy of  
134 the report. If the written report from the department contains a  
135 determination that the assisted living residence is not in compliance  
136 with the requirements of the provisions of sections 1 to 9, inclusive, of  
137 this act, the regulations of the department concerning assisted living  
138 residences or the Public Health Code, the department shall set forth  
139 with particularity all facts and circumstances relied upon by the  
140 department in making such a determination. The assisted living  
141 residence may submit a written response to the department's report  
142 not later than ten days after the receipt of the report. The department  
143 shall establish an administrative procedure for resolving disputes

144 regarding findings of noncompliance prior to the department taking  
145 any final remedial action. Remedial actions available to the department  
146 shall include, but not be limited to, the imposition of a civil penalty  
147 against an assisted living residence in an amount not to exceed five  
148 thousand dollars. The department shall maintain and make available  
149 for public inspection all completed reports, responses from assisted  
150 living residences and notices of final action compiled in accordance  
151 with the provisions of this section.

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

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

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

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

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

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

175 of other residents;

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

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

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

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

188 (9) Exercise civil and religious liberties;

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

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

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

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

202 (14) Be fully advised of the relationship that the assisted living

203 residence has with any assisted living services agency, health care  
204 facility or educational institution to the extent that such relationship  
205 relates to resident medical care or treatment and to receive an  
206 explanation about the relationship;

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

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

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

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

213 (19) Refuse assistance with or supervision of the activities of daily  
214 living.

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

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

228 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) An assisted living  
229 residence, after consultation with the resident, shall develop and  
230 maintain an individualized service plan for the resident describing in  
231 lay terms the needs of the resident for assisted living services, if any,

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

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

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

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

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

262 (2) A full and fair disclosure of all charges, fees, expenses and costs

263 to be borne by the resident;

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

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

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

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

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

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

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

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

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

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

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

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

323 Sec. 12. Subsection (a) of section 17b-365 of the general statutes is

324 repealed and the following is substituted in lieu thereof (*Effective*  
325 *October 1, 2007*):

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

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

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

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

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

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

388 (b) The Office of the Long-Term Care Ombudsman shall develop  
389 and implement the pilot program in cooperation with [managed

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

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

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

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

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

430 (c) The provisions of sections 1 to 10, inclusive, of this act shall not  
 431 apply to any state-funded congregate housing facility.

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

**AGE**

*Joint Favorable Subst. C/R*

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