



General Assembly

**Amendment**

February Session, 2008

LCO No. 6581

**\*SB0057706581SD0\***

Offered by:

SEN. HARRIS, 5<sup>th</sup> Dist.  
REP. VILLANO, 91<sup>st</sup> Dist.  
REP. ABERCROMBIE, 83<sup>rd</sup> Dist.  
SEN. COLEMAN, 2<sup>nd</sup> Dist.  
SEN. KISSEL, 7<sup>th</sup> Dist.

To: Subst. Senate Bill No. 577

File No. 601

Cal. No. 397

**"AN ACT CONCERNING THE NURSING HOME FINANCIAL ADVISORY COMMITTEE."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2008*) In addition to any other  
4 disclosures required under any provision of the general statutes, on  
5 and after May 1, 2009, each chronic and convalescent nursing home  
6 shall maintain and make publicly available information about staffing  
7 schedules and ratios as follows:

8 (1) Each chronic and convalescent nursing home shall post for each  
9 unit of the facility and for each shift the current number of licensed  
10 and unlicensed nursing staff directly responsible for resident care and  
11 the current ratios of residents to staff, which show separately the

12 number of residents to licensed nursing staff and the number of  
13 residents to certified nurse's aides. This information shall be displayed  
14 on a form prescribed by the Department of Public Health.

15 (2) Such information shall be posted for the most recently concluded  
16 cost reporting period in the form of average daily staffing ratios for  
17 that period.

18 (3) Such information shall be posted in a manner that is visible and  
19 accessible to all residents, their families, caregivers and potential  
20 consumers in each facility.

21 Sec. 2. (NEW) (*Effective July 1, 2008*) The Department of Public  
22 Health shall include a direct link in a prominent place on its web site to  
23 the United States Department of Health and Human Services' Nursing  
24 Home Compare database posted on the United States Department of  
25 Health and Human Services' official United States Government Site for  
26 People with Medicare.

27 Sec. 3. Section 17b-351 of the general statutes is amended by adding  
28 subsection (c) as follows (*Effective July 1, 2008*):

29 (NEW) (c) On or before December 31, 2008, and annually thereafter,  
30 the Commissioner of Social Services, in consultation with the  
31 Commissioner of Public Health, shall, within available appropriations,  
32 complete an inventory of all publicly funded and private pay nursing  
33 home beds in the state. On or before January 1, 2009, and annually  
34 thereafter, the Commissioner of Social Services shall report to the joint  
35 standing committees of the General Assembly having cognizance of  
36 matters relating to human services and public health on the results of  
37 the inventory, in accordance with section 11-4a. The Commissioner of  
38 Social Services shall identify in such report any geographic areas in the  
39 state that are in need of additional nursing home beds and the number  
40 of beds needed in such geographical areas. The Commissioner of  
41 Social Services shall also identify any areas of the state in which there  
42 is a surplus of nursing home beds.

43 Sec. 4. Section 17b-352 of the 2008 supplement to the general statutes  
44 is repealed and the following is substituted in lieu thereof (*Effective*  
45 *from passage*):

46 (a) For the purposes of this section and section 17b-353 of the 2008  
47 supplement to the general statutes, "facility" means a residential  
48 facility for the mentally retarded licensed pursuant to section 17a-277  
49 of the 2008 supplement to the general statutes and certified to  
50 participate in the Title XIX Medicaid program as an intermediate care  
51 facility for the mentally retarded, a nursing home, rest home or  
52 residential care home, as defined in section 19a-490 of the 2008  
53 supplement to the general statutes.

54 (b) Any facility [which] that intends to (1) transfer all or part of its  
55 ownership or control; [prior to being initially licensed;] (2) introduce  
56 any additional function or service into its program of care or expand  
57 an existing function or service; or (3) terminate a service or decrease  
58 substantially its total bed capacity, shall submit a complete request for  
59 permission to implement such transfer, addition, expansion, increase,  
60 termination or decrease with such information as the department  
61 requires to the Department of Social Services, provided no permission  
62 or request for permission to close a facility is required when a facility  
63 in receivership is closed by order of the Superior Court pursuant to  
64 section 19a-545 of the 2008 supplement to the general statutes. The  
65 Office of the Long-Term Care Ombudsman pursuant to section 17b-400  
66 shall be notified by the facility of any proposed actions pursuant to this  
67 subsection at the same time the request for permission is submitted to  
68 the department and when a facility in receivership is closed by order of  
69 the Superior Court pursuant to section 19a-545 of the 2008 supplement  
70 to the general statutes.

71 (c) An applicant, prior to submitting a certificate of need  
72 application, shall request, in writing, application forms and  
73 instructions from the department. The request shall include [:(1) The]  
74 the name of the applicant or applicants [;(2)] and a statement  
75 indicating whether the application is for [(A)] (1) a transfer of

76 ownership or control, (2) a new, additional, expanded or replacement  
77 facility, service or function, [(B)] (3) a termination or reduction in a  
78 presently authorized service or bed capacity, or [(C)] (4) any new,  
79 additional or terminated beds and their type. [(3)] Applications, other  
80 than those seeking transfer of ownership or control, shall include (A)  
81 the estimated capital cost; [(4)] (B) the town where the project is or will  
82 be located; and [(5)] (C) a brief description of the proposed project.  
83 Such request shall be deemed a letter of intent. No certificate of need  
84 application shall be considered submitted to the department unless a  
85 current letter of intent, specific to the proposal and in accordance with  
86 the provisions of this subsection, has been on file with the department  
87 for not less than ten business days. For purposes of this subsection, "a  
88 current letter of intent" means a letter of intent on file with the  
89 department for not more than one hundred eighty days. A certificate  
90 of need application shall be deemed withdrawn by the department, if a  
91 department completeness letter is not responded to within one  
92 hundred eighty days. The Office of the Long-Term Care Ombudsman  
93 shall be notified by the facility at the same time as the letter of intent is  
94 submitted to the department.

95 (d) Any facility acting pursuant to subdivision (3) of subsection (b)  
96 of this section shall provide written notice, at the same time it submits  
97 its letter of intent, to all patients, guardians or conservators, if any, or  
98 legally liable relatives or other responsible parties, if known, and shall  
99 post such notice in a conspicuous location at the facility. The notice  
100 shall state the following: [(A)] (1) The projected date the facility will be  
101 submitting its certificate of need application, [(B)] (2) that only the  
102 department has the authority to either grant, modify or deny the  
103 application, [(C)] (3) that the department has up to ninety days to  
104 grant, modify or deny the certificate of need application, [(D)] (4) a  
105 brief description of the reason or reasons for submitting a request for  
106 permission, [(E)] (5) that no patient shall be involuntarily transferred  
107 or discharged within or from a facility pursuant to state and federal  
108 law because of the filing of the certificate of need application, [(F)] (6)  
109 that all patients have a right to appeal any proposed transfer or

110 discharge, and [(G)] (7) the name, mailing address and telephone  
111 number of the Office of the Long-Term Care Ombudsman and local  
112 legal aid office.

113 (e) The department shall review a request made pursuant to  
114 subsection (b) of this section to the extent it deems necessary,  
115 including, but not limited to, in the case of a proposed transfer of  
116 ownership or control, [prior to initial licensure] the financial viability  
117 of the applicant, the impact on the facility rate, any real property lease  
118 or debt instrument and the financial condition of the applicant, the  
119 financial responsibility and business interests of the transferee and the  
120 ability of the facility to continue to provide needed services, or in the  
121 case of the addition or expansion of a function or service, ascertaining  
122 the availability of the function or service at other facilities within the  
123 area to be served, the need for the service or function within the area  
124 and any other factors the department deems relevant to a  
125 determination of whether the facility is justified in adding or  
126 expanding the function or service. The commissioner shall grant,  
127 modify or deny the request within ninety days of receipt thereof,  
128 except as otherwise provided in this section. Upon the request of the  
129 applicant, the review period may be extended for an additional fifteen  
130 days if the department has requested additional information  
131 subsequent to the commencement of the commissioner's review  
132 period. The director of the office of certificate of need and rate setting  
133 may extend the review period for a maximum of thirty days if the  
134 applicant has not filed in a timely manner information deemed  
135 necessary by the department. The applicant may request and shall  
136 receive a hearing in accordance with section 4-177 if aggrieved by a  
137 decision of the commissioner.

138 (f) The Commissioner of Social Services shall not approve any  
139 requests for beds in residential facilities for the mentally retarded  
140 which are licensed pursuant to section 17a-227 of the 2008 supplement  
141 to the general statutes and are certified to participate in the Title XIX  
142 Medicaid Program as intermediate care facilities for the mentally  
143 retarded, except those beds necessary to implement the residential

144 placement goals of the Department of Developmental Services which  
145 are within available appropriations.

146 (g) The Commissioner of Social Services shall adopt regulations, in  
147 accordance with chapter 54, to implement the provisions of this  
148 section. The commissioner shall implement the standards and  
149 procedures of the Office of Health Care Access concerning certificates  
150 of need established pursuant to section 19a-643, as appropriate for the  
151 purposes of this section, until the time final regulations are adopted in  
152 accordance with said chapter 54.

153 Sec. 5. Section 17b-339 of the general statutes is repealed and the  
154 following is substituted in lieu thereof (*Effective from passage*):

155 (a) There is established a Nursing Home Financial [Advisory]  
156 Oversight Committee to examine the financial solvency of nursing  
157 homes on an ongoing basis and to support the Departments of Social  
158 Services and Public Health in their mission to provide oversight to the  
159 nursing home industry [which promotes] on issues concerning the  
160 financial solvency of and quality of care provided by nursing homes.  
161 The committee shall consist of [seven members: The] the  
162 Commissioner of Social Services, or his designee; the Commissioner of  
163 Public Health, or his designee; the Secretary of the Office of Policy and  
164 Management, or his designee; [the director of the Office of Fiscal  
165 Analysis, or his designee;] the Long-Term Care Ombudsman or the  
166 ombudsman's designee; and the executive director of the Connecticut  
167 Health and Education Facilities Authority, or his designee, ]; and one  
168 representative of nonprofit nursing homes and one representative of  
169 for-profit nursing homes appointed by the Governor.]

170 [(b)] The Commissioner of Social Services and the Commissioner of  
171 Public Health shall be the chairpersons of the committee. [Any vacancy  
172 shall be filled by the appointing authority.]

173 [(c)] (b) The committee, upon receipt of a report relative to the  
174 financial solvency of and quality of care provided by nursing homes in  
175 the state, shall recommend appropriate action [for improving the

176 financial condition of any nursing home that is in financial distress] to  
177 the Commissioner of Social Services and the Commissioner of Public  
178 Health. The Commissioner of Social Services shall notify the committee  
179 of any nursing home request for an interim rate increase pursuant to  
180 section 17b-340 of the 2008 supplement to the general statutes.

181 [(d)] (c) Not later than January 1, [1999] 2010, and annually  
182 thereafter, the committee shall submit a report on its activities to the  
183 joint standing committees of the General Assembly having cognizance  
184 of matters relating to appropriations, human services and public health  
185 and to the select committee of the General Assembly having  
186 cognizance of matters relating to aging, in accordance with the  
187 provisions of section 11-4a.

188 (d) Not later than October 1, 2008, and quarterly thereafter, the  
189 committee shall meet with the chairpersons and ranking members of  
190 the joint standing committees of the General Assembly having  
191 cognizance of matters relating to human services, appropriations and  
192 the budgets of state agencies, and public health, and the Long-Term  
193 Care Ombudsman to discuss activities of the committee relating to the  
194 financial solvency of and quality of care provided by nursing homes.

195 Sec. 6. (NEW) (*Effective from passage*) (a) The Commissioner of Social  
196 Services may require each owner of a chronic and convalescent  
197 nursing home or rest home with nursing supervision to submit to the  
198 Department of Social Services quarterly reports of accounts payable by  
199 vendor and by days outstanding in a format prescribed by the  
200 commissioner. In addition, on and after July 1, 2009, each chronic and  
201 convalescent nursing home or rest home with nursing supervision  
202 shall obtain an annual financial audit of its operations conducted by an  
203 independent auditor, and shall provide a copy of the audit report to  
204 the commissioner. If such reports indicate such facility may be  
205 experiencing financial distress, the commissioner shall require such  
206 facility to submit specific financial information, including, but not  
207 limited to, debt agreements and interim financial statements.

208 (b) The commissioner may also require (1) a nursing facility  
209 management services certificate holder, as defined in section 19a-490 of  
210 the 2008 supplement to the general statutes, as amended by this act, or  
211 any person or entity that has a beneficial ownership interest of ten per  
212 cent or more in such holder to report information concerning the  
213 financial condition of any facility managed or owned by such holder or  
214 beneficial owner in this state or another state, and (2) any person or  
215 entity that has a beneficial ownership interest of ten per cent or more  
216 in a chronic and convalescent nursing home or rest home with nursing  
217 supervision to report information concerning the financial condition of  
218 any facility owned by such person or entity in this state or another  
219 state, in a format prescribed by the commissioner. For purposes of this  
220 subsection, beneficial ownership includes ownership through any level  
221 or relationship of parent and subsidiary corporations and partnerships.

222 (c) If the Commissioner of Social Services determines, based on a  
223 review of the information provided pursuant to subsections (a) and (b)  
224 of this section and review of a chronic and convalescent nursing  
225 home's or rest home with nursing supervision's annual cost report  
226 submitted to the Department of Social Services pursuant to section  
227 17b-340 of the 2008 supplement to the general statutes, that a chronic  
228 and convalescent nursing home or rest home with nursing supervision  
229 has undergone an adverse change in financial condition, the  
230 commissioner shall notify the Commissioner of Public Health and the  
231 Nursing Home Financial Oversight Committee, established pursuant  
232 to section 17b-339 of the general statutes, as amended by this act, and  
233 may require such facility to report monthly its cash availability and the  
234 status of vendor payments and employee payrolls. The Commissioner  
235 of Social Services may require the reporting of other financial  
236 information to assist in measuring the financial condition of such  
237 facility.

238 (d) The criteria to be used by the Commissioner of Social Services  
239 pursuant to subsection (c) of this section to determine whether a  
240 chronic and convalescent nursing home or rest home with nursing

241 supervision has undergone an adverse change in financial condition  
242 shall include, but not be limited to, (1) the frequency of Medicaid  
243 advances granted in accordance with section 119 of public act 07-1 of  
244 the June special session; (2) unfavorable working capital ratios of assets  
245 to liabilities; (3) a high proportion of accounts receivable more than  
246 ninety days old; (4) a high proportion of accounts payable more than  
247 ninety days old; (5) significant increases in accounts payable, unpaid  
248 state or municipal taxes, state user fees or payroll-related costs; (6)  
249 minimal equity or reserves or decreasing equity or reserves; (7) high  
250 levels of debt and high borrowing costs; (8) significant increases in the  
251 level of debts and borrowing costs; and (9) significant operating losses  
252 for two or more consecutive years.

253 (e) If the Commissioner of Social Services determines that a chronic  
254 and convalescent nursing home or rest home with nursing supervision  
255 is in financial distress that may lead to the facility having insufficient  
256 resources to meet its operating costs, the commissioner, in accordance  
257 with section 11-4a of the general statutes, shall issue a report of such  
258 findings to the joint standing committees of the General Assembly  
259 having cognizance of matters relating to human services, public health,  
260 and appropriations and the budgets of state agencies, and to the  
261 Nursing Home Financial Oversight Committee, established pursuant  
262 to section 17b-339 of the general statutes, as amended by this act. Such  
263 report shall be in a format prescribed by the Nursing Home Financial  
264 Oversight Committee.

265 Sec. 7. (NEW) (*Effective from passage*) (a) Each nursing facility  
266 management services certificate holder, as defined in section 19a-490 of  
267 the 2008 supplement to the general statutes, as amended by this act, for  
268 which rates paid by the state are set pursuant to section 17b-340 of the  
269 2008 supplement to the general statutes, shall, upon request by the  
270 Commissioner of Social Services, report its annual costs to the  
271 commissioner on a form prescribed by the commissioner. Costs shall  
272 be reported on a fiscal year basis ending on the thirtieth day of  
273 September and submitted on or before the thirty-first day of  
274 December.

275 (b) No nursing facility management services certificate holder, who  
276 is a related party to the owner of a chronic and convalescent nursing  
277 home or rest home with nursing supervision, shall be paid fees,  
278 including expenses from such facility for which it provides such  
279 services, in excess of the management fee permitted by the Department  
280 of Social Services in setting the rate for such facility pursuant to section  
281 17b-340 of the 2008 supplement to the general statutes unless the  
282 Commissioner of Social Services, after a financial review of such  
283 holder, approves a management fee in excess of such rate. For any  
284 violation of this subsection, the Commissioner of Social Services may  
285 assess a civil penalty not to exceed the amount by which the fee paid  
286 for such services exceeds the approved management fee plus fifteen  
287 thousand dollars. The provisions of this subsection shall not apply to  
288 any management fee in effect on or before April 1, 2008. As used in this  
289 section, "related party" means persons or organizations related  
290 through an ability to control, ownership, family relationship or  
291 business association, and includes persons related through marriage.

292 Sec. 8. Section 17b-4 of the general statutes is repealed and the  
293 following is substituted in lieu thereof (*Effective from passage*):

294 (a) The Department of Social Services shall plan, develop,  
295 administer, operate, evaluate and provide funding for services for  
296 individuals and families who are served by the department [who] and  
297 are in need of personal or economic development. In cooperation with  
298 other social service agencies and organizations, including community-  
299 based agencies, the department shall work to develop and fund  
300 prevention, intervention and treatment services for such individuals  
301 and families. The department shall: (1) Provide appropriate services to  
302 individuals and families as needed through direct social work services  
303 rendered by the department and contracted services from community-  
304 based organizations funded by the department; (2) collect, interpret  
305 and publish statistics relating to individuals and families serviced by  
306 the department; (3) monitor, evaluate and review any program or  
307 service which is developed, operated or funded by the department; (4)  
308 supervise the establishment of pilot programs funded by the

309 department in local communities which assist and support individuals  
310 and families in personal and economic development; (5) improve the  
311 quality of services provided, operated and funded by the department  
312 and increase the competency of its staff relative to the provision of  
313 effective social services by establishing and supporting ongoing staff  
314 development and training; and (6) encourage citizen participation in  
315 the development of social service priorities and programs.

316 (b) The Department of Social Services shall study continuously the  
317 conditions and needs of elderly and aging persons in this state in  
318 relation to nutrition, transportation, home-care, housing, income,  
319 employment, health, recreation and other matters. It shall be  
320 responsible in cooperation with federal, state, local and area planning  
321 agencies on aging for the overall planning, development and  
322 administration of a comprehensive and integrated social service  
323 delivery system for elderly persons and the aged. The department  
324 shall: (1) Measure the need for services; (2) survey methods of  
325 administration of programs for service delivery; (3) provide for  
326 periodic evaluations of social services; (4) maintain technical,  
327 information, consultation and referral services in cooperation with  
328 other state agencies to local and area public and private agencies to the  
329 fullest extent possible; (5) develop and coordinate educational  
330 outreach programs for the purposes of informing the public and  
331 elderly persons of available programs; (6) cooperate in the  
332 development of performance standards for licensing of residential and  
333 medical facilities with appropriate state agencies; (7) supervise the  
334 establishment, in selected areas and local communities of the state, of  
335 pilot programs for elderly persons; (8) coordinate with the Department  
336 of Transportation to provide adequate transportation services related  
337 to the needs of elderly persons; and (9) cooperate with other state  
338 agencies to provide adequate and alternate housing for elderly  
339 persons, including congregate housing, as defined in section 8-119e.

340 [(c) The Department of Social Services, in conjunction with the  
341 Department of Public Health, may adopt regulations in accordance  
342 with the provisions of chapter 54 to establish requirements with

343 respect to the submission of reports concerning financial solvency and  
344 quality of care by nursing homes for the purpose of determining the  
345 financial viability of such homes, identifying homes that appear to be  
346 experiencing financial distress and examining the underlying reasons  
347 for such distress. Such reports shall be submitted to the Nursing Home  
348 Financial Advisory Committee established under section 17b-339.]

349       Sec. 9. (NEW) (*Effective from passage*) (a) The Commissioner of Social  
350 Services, in consultation with the Banking Commissioner and the  
351 executive director of the Connecticut Health and Educational Facilities  
352 Authority, shall establish reasonable rates of indebtedness and  
353 reasonable real property lease payments for chronic and convalescent  
354 nursing homes and rest homes with nursing supervision. No chronic  
355 and convalescent nursing home or rest home with nursing supervision  
356 licensed in this state, or any owner of the property on which such  
357 facility is located who is a related party to the owner of any such  
358 facility, shall increase its indebtedness beyond the amount established  
359 pursuant to this section or increase its real property lease payments  
360 unless approved by the Commissioner of Social Services. A chronic  
361 and convalescent nursing home or rest home with nursing supervision,  
362 or any owner of the property on which such facility is located who is a  
363 related party to the owner of such facility, may submit a request  
364 pursuant to this section for such increase in a manner prescribed by  
365 the commissioner. The commissioner may request information as  
366 necessary to evaluate the request and shall approve, deny or modify  
367 the request not later than sixty days after submission of any such  
368 requested information. The commissioner shall approve or modify a  
369 request only if the commissioner determines that such increase will not  
370 materially affect the financial viability of the facility or the quality of  
371 patient care. The provisions of this section shall not apply to any  
372 indebtedness or lease entered into by a chronic and convalescent  
373 nursing home or rest home with nursing supervision on or before  
374 April 1, 2008. As used in this subsection "related party" means persons  
375 or organizations related through an ability to control, ownership,  
376 family relationship or business association, and includes persons

377 related through marriage.

378 (b) The proceeds of any loan in which a chronic and convalescent  
379 nursing home or rest home with nursing supervision has pledged,  
380 granted a lien or otherwise encumbered the assets of such facility shall  
381 be used solely for the purpose of operating such nursing home facility  
382 or providing improvements to the nursing home facility, unless such  
383 facility receives prior approval from the Department of Social Services  
384 to use such proceeds for other purposes related to such facility.

385 (c) Any violation of subsections (a) and (b) of this section shall  
386 constitute a substantial failure to comply with the requirements  
387 established under chapter 368v of the general statutes for purposes of  
388 disciplinary action pursuant to section 19a-494 of the general statutes.  
389 In addition to any action by the Commissioner of Public Health under  
390 said section, the Commissioner of Social Services may impose a civil  
391 penalty not exceeding twenty-five thousand dollars for each violation  
392 and may refer the findings of the Department of Social Services to the  
393 Commissioner of Public Health for appropriate action.

394 Sec. 10. (NEW) (*Effective October 1, 2008*) Each owner of a chronic  
395 and convalescent nursing home or rest home with nursing supervision  
396 shall submit annually to the Department of Social Services, along with  
397 such facility's annual cost report, proof of its insurance liability  
398 coverage for negligence or medical malpractice, and damages to  
399 property, and the amounts of such coverage in a form prescribed by  
400 the Commissioner of Social Services. On or before January 1, 2009, and  
401 annually thereafter, the department shall report, in accordance with  
402 section 11-4a of the general statutes, information concerning the  
403 insurance liability coverage of such facilities to the joint standing  
404 committee of the General Assembly having cognizance of matters  
405 relating to human services.

406 Sec. 11. Section 19a-490 of the 2008 supplement to the general  
407 statutes is repealed and the following is substituted in lieu thereof  
408 (*Effective October 1, 2008*):

409 As used in this chapter and sections 17b-261e of the 2008  
410 supplement to the general statutes, 38a-498b of the 2008 supplement to  
411 the general statutes and 38a-525b of the 2008 supplement to the general  
412 statutes:

413 (a) "Institution" means a hospital, residential care home, health care  
414 facility for the handicapped, nursing home, rest home, home health  
415 care agency, homemaker-home health aide agency, mental health  
416 facility, assisted living services agency, substance abuse treatment  
417 facility, outpatient surgical facility, an infirmary operated by an  
418 educational institution for the care of students enrolled in, and faculty  
419 and employees of, such institution; a facility engaged in providing  
420 services for the prevention, diagnosis, treatment or care of human  
421 health conditions, including facilities operated and maintained by any  
422 state agency, except facilities for the care or treatment of mentally ill  
423 persons or persons with substance abuse problems; and a residential  
424 facility for the mentally retarded licensed pursuant to section 17a-227  
425 of the 2008 supplement to the general statutes and certified to  
426 participate in the Title XIX Medicaid program as an intermediate care  
427 facility for the mentally retarded;

428 (b) "Hospital" means an establishment for the lodging, care and  
429 treatment of persons suffering from disease or other abnormal physical  
430 or mental conditions and includes inpatient psychiatric services in  
431 general hospitals;

432 (c) "Residential care home", "nursing home" or "rest home" means an  
433 establishment which furnishes, in single or multiple facilities, food and  
434 shelter to two or more persons unrelated to the proprietor and, in  
435 addition, provides services which meet a need beyond the basic  
436 provisions of food, shelter and laundry;

437 (d) "Home health care agency" means a public or private  
438 organization, or a subdivision thereof, engaged in providing  
439 professional nursing services and the following services, available  
440 twenty-four hours per day, in the patient's home or a substantially

441 equivalent environment: Homemaker-home health aide services as  
442 defined in this section, physical therapy, speech therapy, occupational  
443 therapy or medical social services. The agency shall provide  
444 professional nursing services and at least one additional service  
445 directly and all others directly or through contract. An agency shall be  
446 available to enroll new patients seven days a week, twenty-four hours  
447 per day;

448 (e) "Homemaker-home health aide agency" means a public or  
449 private organization, except a home health care agency, which  
450 provides in the patient's home or a substantially equivalent  
451 environment supportive services which may include, but are not  
452 limited to, assistance with personal hygiene, dressing, feeding and  
453 incidental household tasks essential to achieving adequate household  
454 and family management. Such supportive services shall be provided  
455 under the supervision of a registered nurse and, if such nurse  
456 determines appropriate, shall be provided by a social worker, physical  
457 therapist, speech therapist or occupational therapist. Such supervision  
458 may be provided directly or through contract;

459 (f) "Homemaker-home health aide services" as defined in this  
460 section shall not include services provided to assist individuals with  
461 activities of daily living when such individuals have a disease or  
462 condition that is chronic and stable as determined by a physician  
463 licensed in the state of Connecticut;

464 (g) "Mental health facility" means any facility for the care or  
465 treatment of mentally ill or emotionally disturbed persons, or any  
466 mental health outpatient treatment facility that provides treatment to  
467 persons sixteen years of age or older who are receiving services from  
468 the Department of Mental Health and Addiction Services, but does not  
469 include family care homes for the mentally ill;

470 (h) "Alcohol or drug treatment facility" means any facility for the  
471 care or treatment of persons suffering from alcoholism or other drug  
472 addiction;

473 (i) "Person" means any individual, firm, partnership, corporation,  
474 limited liability company or association;

475 (j) "Commissioner" means the Commissioner of Public Health;

476 (k) "Home health agency" means an agency licensed as a home  
477 health care agency or a homemaker-home health aide agency;

478 (l) "Assisted living services agency" means an agency that provides,  
479 among other things, nursing services and assistance with activities of  
480 daily living to a population that is chronic and stable; [and]

481 (m) "Mobile field hospital" means a modular, transportable facility  
482 used intermittently, deployed at the discretion of the Governor, or the  
483 Governor's designee, for the provision of medical services at a mass  
484 gathering; for the purpose of training or in the event of a public health  
485 or other emergency for isolation care purposes or triage and treatment  
486 during a mass casualty event; or for providing surge capacity for a  
487 hospital during a mass casualty event or infrastructure failure; and

488 (n) "Nursing facility management services certificate holder" means  
489 a person or entity certified by the Department of Public Health to  
490 provide nursing facility management services, as defined in section  
491 19a-561 of the 2008 supplement to the general statutes.

492 Sec. 12. Subsection (b) of section 19a-491 of the general statutes is  
493 repealed and the following is substituted in lieu thereof (*Effective*  
494 *October 1, 2008*):

495 (b) If any person acting individually or jointly with any other person  
496 shall own real property or any improvements thereon, upon or within  
497 which an institution, as defined in subsection (c) of section 19a-490 of  
498 the 2008 supplement to the general statutes, as amended by this act, is  
499 established, conducted, operated or maintained and is not the licensee  
500 of the institution, such person shall submit a copy of the lease  
501 agreement to the department at the time of any change of ownership  
502 and with each license renewal application. The lease agreement shall,

503 at a minimum, identify the person or entity responsible for the  
504 maintenance and repair of all buildings and structures within which  
505 such an institution is established, conducted or operated. If a violation  
506 is found as a result of an inspection or investigation, the commissioner  
507 may require the owner to sign a consent order providing assurances  
508 that repairs or improvements necessary for compliance with the  
509 provisions of the Public Health Code shall be completed within a  
510 specified period of time. Such order shall include a civil penalty of not  
511 more than one thousand dollars for each day that such owner is in  
512 violation of the provisions of such order. The order may also include a  
513 provision for the appointment of a temporary manager of such real  
514 property or improvements who shall have the authority to complete  
515 any repairs or improvements required by such order. Upon request of  
516 the Commissioner of Public Health, the Attorney General may petition  
517 the Superior Court for such equitable and injunctive relief as such  
518 court deems appropriate to ensure compliance with the provisions of  
519 the consent order. The provisions of this subsection shall not apply to  
520 any property or improvements owned by a person licensed in  
521 accordance with the provisions of subsection (a) of this section to  
522 establish, conduct, operate or maintain an institution on or within such  
523 property or improvements.

524 Sec. 13. Subdivision (2) of subsection (b) of section 19a-493 of the  
525 general statutes is repealed and the following is substituted in lieu  
526 thereof (*Effective October 1, 2008*):

527 (2) Any change in the ownership of a facility or institution, as  
528 defined in subsection (c) of section 19a-490 of the 2008 supplement to  
529 the general statutes, as amended by this act, owned by an individual,  
530 partnership or association or the change in ownership or beneficial  
531 ownership of ten per cent or more of the stock of a corporation which  
532 owns, conducts, operates or maintains such facility or institution, shall  
533 be subject to prior approval of the department after a scheduled  
534 inspection of such facility or institution is conducted by the  
535 department, provided such approval shall be conditioned upon a  
536 showing by such facility or institution to the commissioner that it has

537 complied with all requirements of this chapter, the regulations relating  
538 to licensure and all applicable requirements of the Public Health Code.  
539 Any such change in ownership or beneficial ownership resulting in a  
540 transfer to a person related by blood or marriage to such an owner or  
541 beneficial owner shall not be subject to prior approval of the  
542 department unless: (A) Ownership or beneficial ownership of ten per  
543 cent or more of the stock of a corporation, partnership or association  
544 which owns, conducts, operates or maintains more than one facility or  
545 institution is transferred; (B) ownership or beneficial ownership is  
546 transferred in more than one facility or institution; or (C) the facility or  
547 institution is the subject of a pending complaint, investigation or  
548 licensure action. If the facility or institution is not in compliance, the  
549 commissioner may require the new owner to sign a consent order  
550 providing reasonable assurances that the violations shall be corrected  
551 within a specified period of time. Notice of any such proposed change  
552 of ownership shall be given to the department at least ninety days  
553 prior to the effective date of such proposed change. For the purposes of  
554 this subdivision, "a person related by blood or marriage" means a  
555 parent, spouse, child, brother, sister, aunt, uncle, niece or nephew. For  
556 the purposes of this subdivision, a change in the legal form of the  
557 ownership entity, including, but not limited to, changes from a  
558 corporation to a limited liability company, a partnership to a limited  
559 liability partnership, a sole proprietorship to a corporation and similar  
560 changes, shall not be considered a change of ownership if the  
561 beneficial ownership remains unchanged and the owner provides such  
562 information regarding the change to the department as may be  
563 required by the department in order to properly identify the current  
564 status of ownership and beneficial ownership of the facility or  
565 institution. For the purposes of this subdivision, a public offering of  
566 the stock of any corporation that owns, conducts, operates or  
567 maintains any such facility or institution shall not be considered a  
568 change in ownership or beneficial ownership of such facility or  
569 institution if the licensee and the officers and directors of such  
570 corporation remain unchanged, such public offering cannot result in  
571 an individual or entity owning ten per cent or more of the stock of

572 such corporation, and the owner provides such information to the  
573 department as may be required by the department in order to properly  
574 identify the current status of ownership and beneficial ownership of  
575 the facility or institution. For purposes of this subdivision, beneficial  
576 ownership includes ownership through any level or relationship of  
577 parent and subsidiary corporations and partnerships. To the extent  
578 required by this subdivision, the licensee of such facility or institution  
579 shall provide to the department the identities of, and any other  
580 information required by the department regarding the individual  
581 shareholders, partners or members that have a beneficial ownership  
582 interest in the facility or institution, as defined in subsection (a) of  
583 section 19a-490 of the 2008 supplement to the general statutes, as  
584 amended by this act.

585 Sec. 14. Section 19a-498 of the general statutes is repealed and the  
586 following is substituted in lieu thereof (*Effective October 1, 2008*):

587 (a) Subject to the provisions of section 19a-493, as amended by this  
588 act, the Department of Public Health shall make or cause to be made a  
589 biennial licensure inspection of all institutions and such other  
590 inspections and investigations of institutions and examination of their  
591 records as the department deems necessary.

592 (b) The commissioner, or an agent authorized by the commissioner  
593 to conduct any inquiry, investigation or hearing under the provisions  
594 of this chapter, shall have power to inspect the premises of an  
595 institution, issue subpoenas, order the production of books, records or  
596 documents, administer oaths and take testimony under oath relative to  
597 the matter of such inquiry, [or] investigation or hearing. At any  
598 hearing ordered by the department, the commissioner or such agent  
599 may subpoena witnesses and require the production of records, papers  
600 and documents pertinent to such inquiry. If any person disobeys such  
601 subpoena or, having appeared in obedience thereto, refuses to answer  
602 any pertinent question put to such person by the commissioner or such  
603 agent or to produce any records and papers pursuant to the subpoena,  
604 the commissioner or such agent may apply to the superior court for the

605 judicial district of Hartford or for the judicial district wherein the  
606 person resides or wherein the business has been conducted, setting  
607 forth such disobedience or refusal, and said court shall cite such  
608 person to appear before said court to answer such question or to  
609 produce such records and papers.

610 (c) The Department of Mental Health and Addiction Services, with  
611 respect to any mental health facility or alcohol or drug treatment  
612 facility, shall be authorized, either upon the request of the  
613 Commissioner of Public Health or at such other times as they deem  
614 necessary, to enter such facility for the purpose of inspecting programs  
615 conducted at such facility. A written report of the findings of any such  
616 inspection shall be forwarded to the Commissioner of Public Health  
617 and a copy shall be maintained in such facility's licensure file.

618 (d) In addition, the Commissioner of Social Services, or a designated  
619 representative of the Commissioner of Social Services, at the request of  
620 the Office of Health Care Access or the Nursing Home Financial  
621 Oversight Committee, established pursuant to section 17b-339 as  
622 amended by this act, or when the Commissioner of Social Services  
623 deems it necessary, may examine and audit the financial records of any  
624 nursing home facility, as defined in section 19a-521, or any nursing  
625 facility management services certificate holder, as defined in section  
626 19a-490 of the 2008 supplement to the general statutes, as amended by  
627 this act. Each such nursing home facility or nursing facility  
628 management services certificate holder shall retain all financial  
629 information, data and records relating to the operation of the nursing  
630 home facility or nursing facility management services for a period of  
631 not less than ten years, and all financial information, data and records  
632 relating to any real estate transactions affecting such operation, for a  
633 period of not less than twenty-five years, which financial information,  
634 data and records shall be made available, upon request, to the  
635 Commissioner of Social Services or such designated representative at  
636 all reasonable times. In connection with any inquiry, examination or  
637 investigation, the commissioner or authorized agent may issue  
638 subpoenas, order the production of books, records and documents,

639 administer oaths and take testimony under oath. The Attorney  
640 General, upon request of said commissioner, may apply to the  
641 Superior Court to enforce any such subpoena or order.

642 Sec. 15. Section 19a-503 of the general statutes is repealed and the  
643 following is substituted in lieu thereof (*Effective October 1, 2008*):

644 Notwithstanding the existence or pursuit of any other remedy, the  
645 Department of Public Health may, in the manner provided by law and  
646 upon the advice of the Attorney General, conduct an investigation and  
647 maintain an action in the name of the state for injunction or other  
648 process against any person or governmental unit to restrain or prevent  
649 the establishment, conduct, management or operation of an institution  
650 or nursing facility management services, without a license or certificate  
651 under this chapter.

652 Sec. 16. Section 19a-528a of the general statutes is repealed and the  
653 following is substituted in lieu thereof (*Effective October 1, 2008*):

654 For any application of licensure for the acquisition of a nursing  
655 home filed after July 1, 2004, any potential nursing home licensee or  
656 owner must submit in writing, a change in ownership application with  
657 respect to the facility for which the change in ownership is sought.  
658 Such application shall include such information as the Commissioner  
659 of Public Health deems necessary and shall include whether such  
660 potential nursing home licensee or owner (1) has had civil penalties  
661 imposed through final order of the commissioner in accordance with  
662 the provisions of sections 19a-524 to 19a-528, inclusive, or civil  
663 penalties imposed pursuant to the statutes or regulations of another  
664 state, during [a] the two-year period preceding the application, (2) has  
665 had in any state [intermediate] sanctions, other than civil penalties less  
666 than ten thousand dollars, imposed through final adjudication under  
667 the Medicare or Medicaid program pursuant to Title XVIII or XIX of  
668 the federal Social Security Act, 42 USC 301, as from time to time  
669 amended, or (3) has had in any state such potential licensee's or  
670 owner's Medicare or Medicaid provider agreement terminated or not

671 renewed. [.] The commissioner shall not approve such application to  
672 acquire another nursing home in this state for a period of five years  
673 from the date of final order on such civil penalties, final adjudication of  
674 such [intermediate] sanctions, or termination or nonrenewal, except for  
675 good cause shown. [Notwithstanding, the provisions of this section,  
676 the Commissioner of Public Health, may for good cause shown, permit  
677 a potential nursing home licensee or owner to acquire another nursing  
678 home prior to the expiration of said five-year period.]

679 Sec. 17. Section 19a-543 of the general statutes is repealed and the  
680 following is substituted in lieu thereof (*Effective October 1, 2008*):

681 (a) The court shall grant an application for the appointment of a  
682 receiver for a nursing home facility upon a finding of any of the  
683 following: (1) Such facility is operating without a license issued  
684 pursuant to this chapter or such facility's license has been suspended  
685 or revoked pursuant to section 19a-494; (2) such facility intends to  
686 close and adequate arrangements for relocation of its residents have  
687 not been made at least thirty days prior to closing; (3) such facility has  
688 sustained a serious financial loss or failure which jeopardizes the  
689 health, safety and welfare of the patients or there is a reasonable  
690 likelihood of such loss or failure; [or] (4) there exists in such facility a  
691 condition in substantial violation of the Public Health Code, or any  
692 other applicable state statutes, or Title XVIII or XIX of the federal Social  
693 Security Act, 42 USC 301, as amended, or any regulation adopted  
694 pursuant to such state or federal laws; or (5) such facility is in severe  
695 financial distress.

696 (b) The court, upon a determination pursuant to subsection (a) of  
697 this section that a receiver is appropriate, may, in addition to  
698 appointing a receiver for the nursing home facility, appoint a receiver  
699 for (1) any person or entity providing nursing facility management  
700 services, as defined in section 19a-561 of the 2008 supplement to the  
701 general statutes, as amended by this act, for such facility; (2) any  
702 owner of real property, or improvements thereon, on which such  
703 nursing home facility is located; or (3) any legal entity owned or

704 managed by a related party to the nursing home facility owners  
705 providing goods or services to such facility. The court may issue such  
706 orders as it deems necessary to any person that controls or possesses  
707 assets necessary for the receiver to fulfill its duties as set forth in  
708 section 19a-545. As used in this subsection, "related party" means  
709 persons or organizations related through an ability to control,  
710 ownership, family relationship or business association, and includes  
711 persons related through marriage.

712 (c) As used in this section, "severe financial distress" may include:  
713 (1) Allowing more than thirty-five per cent of the facility's vendor  
714 accounts to be overdue for payment by more than one hundred twenty  
715 days; (2) allowing the facility payment of required employee pension  
716 or health insurance contributions to be overdue by more than sixty  
717 days; (3) maintaining an unfavorable working capital ratio of assets to  
718 liabilities for more than one fiscal year; (4) maintaining minimal equity  
719 or reserves for more than one fiscal year; (5) incurring significant  
720 operating losses for more than one fiscal year; or (6) any other criteria  
721 which the Commissioner of Social Services may further define in  
722 regulations adopted pursuant to the provisions of chapter 54. The  
723 commissioner, pursuant to section 17b-10, may implement policies and  
724 procedures to implement the provisions of this subdivision while in  
725 the process of adopting such policies and procedures as regulations,  
726 provided the commissioner prints notice of the intent to adopt the  
727 regulations in the Connecticut Law Journal not later than twenty days  
728 after the date of implementation. Such policies and procedures shall be  
729 valid until the time final regulations are adopted.

730 Sec. 18. Section 19a-546 of the 2008 supplement to the general  
731 statutes is repealed and the following is substituted in lieu thereof  
732 (*Effective from passage*):

733 (a) A receiver may not be required to honor any lease, mortgage,  
734 secured transaction or other contract entered into by the owner of the  
735 facility if, upon application to the Superior Court, said court  
736 determines that: (1) The person seeking payment under the agreement

737 was an owner or controlling stockholder of the facility or was an  
738 affiliate of such owner or controlling stockholder at the time the  
739 agreement was made; or (2) the rental, price or rate of interest required  
740 to be paid under the agreement was substantially in excess of a  
741 reasonable rental, price or rate of interest at the time the contract was  
742 entered into.

743 (b) If the receiver is in possession of real estate or goods subject to a  
744 lease, mortgage or security interest [which] that the receiver is  
745 permitted to avoid under subsection (a) of this section and if the real  
746 estate or goods are necessary for the continued operation of the facility  
747 under this section, the receiver may apply to the court to set a  
748 reasonable rental, price or rate of interest to be paid by the receiver  
749 during the duration of the receivership. No allowance for such  
750 property costs set by the court shall exceed the fair rental value  
751 allowance determined pursuant to the regulations adopted pursuant to  
752 section 17b-238. The court shall hold a hearing not later than fifteen  
753 days after application is made. Any known owners of the property  
754 involved shall receive notice of such application from the receiver at  
755 least ten days prior to the hearing. Payment by the receiver of the  
756 amount determined by the court to be reasonable is a defense to any  
757 action against the receiver for payment or for possession of the goods  
758 or real estate subject to the lease, security interest or mortgage  
759 involved by any person who received such notice, but the payment  
760 does not relieve the owner of the facility of any liability for the  
761 difference between the amount paid by the receiver and the amount  
762 due under such lease, security interest or mortgage involved.

763 (c) The provisions of this section shall not apply to a lease,  
764 mortgage, secured transaction or other contract entered into with any  
765 financial institution regulated by a state or federal agency.

766 Sec. 19. Section 19a-547 of the general statutes is repealed and the  
767 following is substituted in lieu thereof (*Effective October 1, 2008*):

768 (a) The court may appoint any responsible individual whose name

769 is proposed by the Commissioner of Public Health Social Services and  
770 the Commissioner of Social Services to act as a receiver. Such  
771 individual shall be a nursing home administrator licensed in the state  
772 of Connecticut with substantial experience in operating Connecticut  
773 nursing homes or shall possess such other experience and education  
774 that the court deems satisfactory to appropriately and professionally  
775 implement such receivership. On or before July 1, 2004, the  
776 Commissioner of Social Services shall adopt regulations governing  
777 qualifications for proposed receivers consistent with this subsection.  
778 No state employee or owner, administrator or other person with a  
779 financial interest in the facility may serve as a receiver for that facility.  
780 No person appointed to act as a receiver shall be permitted to have a  
781 current financial interest in the facility; nor shall such person  
782 appointed as a receiver be permitted to have a financial interest in the  
783 facility for a period of five years from the date the receivership ceases.

784 (b) The court may remove such receiver in accordance with section  
785 52-513. A nursing home receiver appointed pursuant to this section  
786 shall be entitled to a reasonable receiver's fee as determined by the  
787 court. The receiver shall be liable only in his official capacity for injury  
788 to person and property by reason of the conditions of the nursing  
789 home. He shall not be personally liable, except for acts or omissions  
790 constituting gross, wilful or wanton negligence.

791 (c) The court, in its discretion, may require a bond of such receiver  
792 in accordance with section 52-506.

793 (d) The court may require the Commissioner of [Public Health]  
794 Social Services to provide for the payment of any receiver's fees  
795 authorized in subsection (a) of this section upon a showing by such  
796 receiver to the satisfaction of the court that (1) the assets of the nursing  
797 home facility are not sufficient to make such payment, and (2) no other  
798 source of payment is available, including the submission of claims in a  
799 bankruptcy proceeding. The state shall have a claim for any court-  
800 ordered fees and expenses of the receiver and any state advance  
801 payments to the nursing home facility after a receiver has been

802 appointed which shall have priority over all other claims of secured  
803 and unsecured creditors and other persons whether or not the nursing  
804 home facility is in bankruptcy. [, to the extent allowed under state or  
805 federal law.]

806 Sec. 20. Section 19a-561 of the 2008 supplement to the general  
807 statutes is repealed and the following is substituted in lieu thereof  
808 (*Effective October 1, 2008*):

809 (a) As used in this section, (1) "nursing facility management  
810 services" means services provided in a nursing facility to manage the  
811 operations of such facility, including the provision of care and services,  
812 and (2) "nursing facility management services certificate holder" means  
813 a person or entity certified by the Department of Public Health to  
814 provide nursing facility management services.

815 (b) On and after January 1, 2007, no person or entity shall provide  
816 nursing facility management services in this state without obtaining a  
817 certificate from the Department of Public Health.

818 (c) Any person or entity seeking a certificate to provide nursing  
819 facility management services shall apply to the department, in writing,  
820 on a form prescribed by the department. Such application shall include  
821 the following information:

822 (1) (A) The name and business address of the applicant and whether  
823 the applicant is an individual, partnership, corporation or other legal  
824 entity; (B) the names of the officers, directors, trustees or managing  
825 and general partners of the applicant, the names of the persons having  
826 ten per cent or greater beneficial ownership interest in the applicant,  
827 and a description of each such person's relationship to the applicant;  
828 (C) if the applicant is a corporation incorporated in another state, a  
829 certificate of good standing from the state agency with jurisdiction  
830 over corporations in such state; and (D) a certificate of good standing  
831 from the licensing agency with jurisdiction over public health for each  
832 state in which the applicant currently provides nursing facility  
833 management services;

834 (2) A description of the applicant's nursing facility management  
835 experience;

836 (3) An affidavit signed by the applicant and any of the persons  
837 described in subdivision (1) of this subsection disclosing any matter in  
838 which the applicant or such person (A) has been convicted of an  
839 offense classified as a felony under section 53a-25 or pleaded nolo  
840 contendere to a felony charge, or (B) has been held liable or enjoined in  
841 a civil action by final judgment, if the felony or civil action involved  
842 fraud, embezzlement, fraudulent conversion or misappropriation of  
843 property, or (C) is subject to a currently effective injunction or  
844 restrictive or remedial order of a court of record at the time of  
845 application, or (D) within the past five years has had any state or  
846 federal license or permit suspended or revoked as a result of an action  
847 brought by a governmental agency or department, arising out of or  
848 relating to business activity or health care, including, but not limited  
849 to, actions affecting the operation of a nursing facility, residential care  
850 home or any facility subject to sections 17b-520 to 17b-535, inclusive, or  
851 a similar statute in another state or country; and

852 (4) The location and description of any nursing facility in this state  
853 or another state in which the applicant currently provides  
854 management services or has provided such services within the past  
855 five years.

856 (d) In addition to the information provided pursuant to subsection  
857 (c) of this section, the department may reasonably request to review  
858 the applicant's audited and certified financial statements, which shall  
859 remain the property of the applicant when used for either initial or  
860 renewal certification under this section.

861 (e) Each application for a certificate to provide nursing facility  
862 management services shall be accompanied by an application fee of  
863 three hundred dollars. The certificate shall list each location at which  
864 nursing facility management services may be provided by the holder  
865 of the certificate.

866 (f) The department shall base its decision on whether to issue or  
867 renew a certificate on the information presented to the department and  
868 on the compliance status of the managed entities. The department may  
869 deny certification to any applicant for the provision of nursing facility  
870 management services at any specific facility or facilities where there  
871 has been a substantial failure to comply with the Public Health Code,  
872 or failure to provide the information required under subparagraph (D)  
873 of subdivision (1) of subsection (c) of this section.

874 (g) Renewal applications shall be made biennially after (1)  
875 submission of the information required by subsection (c) of this section  
876 and any other information required by the department pursuant to  
877 subsection (d) of this section, and (2) submission of evidence  
878 satisfactory to the department that any nursing facility at which the  
879 applicant provides nursing facility management services is in  
880 substantial compliance with the provisions of this chapter, the Public  
881 Health Code and licensing regulations, and (3) payment of a three-  
882 hundred-dollar fee.

883 (h) In any case in which the Commissioner of Public Health finds  
884 that there has been a substantial failure to comply with the  
885 requirements established under this section or if the department  
886 receives information from a licensing agency with jurisdiction over  
887 public health in another state that the holder is not in good standing in  
888 such state, the commissioner may initiate disciplinary action against a  
889 nursing facility management services certificate holder pursuant to  
890 section 19a-494. In addition to the remedies provided under section  
891 19a-494, the commissioner may also assess such holder a civil penalty  
892 not to exceed fifteen thousand dollars per violation for any class A or  
893 class B violation, as defined in section 19a-527, that occur at a nursing  
894 facility for which such holder provides nursing facility management  
895 services. Failure to pay such penalties shall be subject to the remedies  
896 provided in section 19a-526.

897 (i) The department may limit or restrict the provision of  
898 management services by any nursing facility management services

899 certificate holder against whom disciplinary action has been initiated  
900 under subsection (h) of this section.

901 (j) The department may, in implementing the provisions of this  
902 section, conduct any inquiry or investigation, in accordance with the  
903 provisions of section 19a-498, as amended by this act, regarding an  
904 applicant or certificate holder.

905 (k) Any person or entity providing nursing facility management  
906 services without the certificate required under this section shall be  
907 subject to a civil penalty of not more than one thousand dollars for  
908 each day that the services are provided without a certificate.

909 Sec. 21. Section 19a-550 of the general statutes is repealed and the  
910 following is substituted in lieu thereof (*Effective October 1, 2008*):

911 (a) (1) As used in this section, (A) "nursing home facility" shall have  
912 the same meaning as provided in section 19a-521, and (B) "chronic  
913 disease hospital" means a long-term hospital having facilities, medical  
914 staff and all necessary personnel for the diagnosis, care and treatment  
915 of chronic diseases; and (2) for the purposes of subsections (c) and (d)  
916 of this section, and subsection (b) of section 19a-537, "medically  
917 contraindicated" means a comprehensive evaluation of the impact of a  
918 potential room transfer on the patient's physical, mental and  
919 psychosocial well-being, which determines that the transfer would  
920 cause new symptoms or exacerbate present symptoms beyond a  
921 reasonable adjustment period resulting in a prolonged or significant  
922 negative outcome that could not be ameliorated through care plan  
923 intervention, as documented by a physician in a patient's medical  
924 record.

925 (b) There is established a patients' bill of rights for any person  
926 admitted as a patient to any nursing home facility or chronic disease  
927 hospital. The patients' bill of rights shall be implemented in accordance  
928 with the provisions of Sections 1919(b), 1919(c), 1919(c)(2),  
929 1919(c)(2)(D) and 1919(c)(2)(E) of the Social Security Act. The patients'  
930 bill of rights shall provide that each such patient: (1) Is fully informed,

931 as evidenced by the patient's written acknowledgment, prior to or at  
932 the time of admission and during the patient's stay, of the rights set  
933 forth in this section and of all rules and regulations governing patient  
934 conduct and responsibilities; (2) is fully informed, prior to or at the  
935 time of admission and during the patient's stay, of services available in  
936 the facility, and of related charges including any charges for services  
937 not covered under Titles XVIII or XIX of the Social Security Act, or not  
938 covered by basic per diem rate; (3) is entitled to choose the patient's  
939 own physician and is fully informed, by a physician, of the patient's  
940 medical condition unless medically contraindicated, as documented by  
941 the physician in the patient's medical record, and is afforded the  
942 opportunity to participate in the planning of the patient's medical  
943 treatment and to refuse to participate in experimental research; (4) in a  
944 residential care home or a chronic disease hospital is transferred from  
945 one room to another within the facility only for medical reasons, or for  
946 the patient's welfare or that of other patients, as documented in the  
947 patient's medical record and such record shall include documentation  
948 of action taken to minimize any disruptive effects of such transfer,  
949 except a patient who is a Medicaid recipient may be transferred from a  
950 private room to a nonprivate room, provided no patient may be  
951 involuntarily transferred from one room to another within the facility  
952 if (A) it is medically established that the move will subject the patient  
953 to a reasonable likelihood of serious physical injury or harm, or (B) the  
954 patient has a prior established medical history of psychiatric problems  
955 and there is psychiatric testimony that as a consequence of the  
956 proposed move there will be exacerbation of the psychiatric problem  
957 which would last over a significant period of time and require  
958 psychiatric intervention; and in the case of an involuntary transfer  
959 from one room to another within the facility, the patient and, if known,  
960 the patient's legally liable relative, guardian or conservator or a person  
961 designated by the patient in accordance with section 1-56r, is given at  
962 least thirty days' and no more than sixty days' written notice to ensure  
963 orderly transfer from one room to another within the facility, except  
964 where the health, safety or welfare of other patients is endangered or  
965 where immediate transfer from one room to another within the facility

966 is necessitated by urgent medical need of the patient or where a patient  
967 has resided in the facility for less than thirty days, in which case notice  
968 shall be given as many days before the transfer as practicable; (5) is  
969 encouraged and assisted, throughout the patient's period of stay, to  
970 exercise the patient's rights as a patient and as a citizen, and to this  
971 end, has the right to be fully informed about patients' rights by state or  
972 federally funded patient advocacy programs, and may voice  
973 grievances and recommend changes in policies and services to facility  
974 staff or to outside representatives of the patient's choice, free from  
975 restraint, interference, coercion, discrimination or reprisal; (6) shall  
976 have prompt efforts made by the facility to resolve grievances the  
977 patient may have, including those with respect to the behavior of other  
978 patients; (7) may manage the patient's personal financial affairs, and is  
979 given a quarterly accounting of financial transactions made on the  
980 patient's behalf; (8) is free from mental and physical abuse, corporal  
981 punishment, involuntary seclusion and any physical or chemical  
982 restraints imposed for purposes of discipline or convenience and not  
983 required to treat the patient's medical symptoms. Physical or chemical  
984 restraints may be imposed only to ensure the physical safety of the  
985 patient or other patients and only upon the written order of a  
986 physician that specifies the type of restraint and the duration and  
987 circumstances under which the restraints are to be used, except in  
988 emergencies until a specific order can be obtained; (9) is assured  
989 confidential treatment of the patient's personal and medical records,  
990 and may approve or refuse their release to any individual outside the  
991 facility, except in case of the patient's transfer to another health care  
992 institution or as required by law or third-party payment contract; (10)  
993 receives quality care and services with reasonable accommodation of  
994 individual needs and preferences, except where the health or safety of  
995 the individual would be endangered, and is treated with  
996 consideration, respect, and full recognition of the patient's dignity and  
997 individuality, including privacy in treatment and in care for the  
998 patient's personal needs; (11) is not required to perform services for the  
999 facility that are not included for therapeutic purposes in the patient's  
1000 plan of care; (12) may associate and communicate privately with

1001 persons of the patient's choice, including other patients, send and  
1002 receive the patient's personal mail unopened and make and receive  
1003 telephone calls privately, unless medically contraindicated, as  
1004 documented by the patient's physician in the patient's medical record,  
1005 and receives adequate notice before the patient's room or roommate in  
1006 the facility is changed; (13) is entitled to organize and participate in  
1007 patient groups in the facility and to participate in social, religious and  
1008 community activities that do not interfere with the rights of other  
1009 patients, unless medically contraindicated, as documented by the  
1010 patient's physician in the patient's medical records; (14) may retain and  
1011 use the patient's personal clothing and possessions unless to do so  
1012 would infringe upon rights of other patients or unless medically  
1013 contraindicated, as documented by the patient's physician in the  
1014 patient's medical record; (15) is assured privacy for visits by the  
1015 patient's spouse or a person designated by the patient in accordance  
1016 with section 1-56r and, if the patient is married and both the patient  
1017 and the patient's spouse are inpatients in the facility, they are  
1018 permitted to share a room, unless medically contraindicated, as  
1019 documented by the attending physician in the medical record; (16) is  
1020 fully informed of the availability of and may examine all current state,  
1021 local and federal inspection reports and plans of correction; (17) may  
1022 organize, maintain and participate in a patient-run resident council, as  
1023 a means of fostering communication among residents and between  
1024 residents and staff, encouraging resident independence and  
1025 addressing the basic rights of nursing home and chronic disease  
1026 hospital patients and residents, free from administrative interference  
1027 or reprisal; (18) is entitled to the opinion of two physicians concerning  
1028 the need for surgery, except in an emergency situation, prior to such  
1029 surgery being performed; (19) is entitled to have the patient's family or  
1030 a person designated by the patient in accordance with section 1-56r  
1031 meet in the facility with the families of other patients in the facility to  
1032 the extent the facility has existing meeting space available which meets  
1033 applicable building and fire codes; (20) is entitled to file a complaint  
1034 with the Department of Social Services and the Department of Public  
1035 Health regarding patient abuse, neglect or misappropriation of patient

1036 property; (21) is entitled to have psychopharmacologic drugs  
1037 administered only on orders of a physician and only as part of a  
1038 written plan of care developed in accordance with Section 1919(b)(2) of  
1039 the Social Security Act and designed to eliminate or modify the  
1040 symptoms for which the drugs are prescribed and only if, at least  
1041 annually, an independent external consultant reviews the  
1042 appropriateness of the drug plan; (22) is entitled to be transferred or  
1043 discharged from the facility only pursuant to section 19a-535 or section  
1044 19a-535b of the 2008 supplement to the general statutes, as applicable;  
1045 (23) is entitled to be treated equally with other patients with regard to  
1046 transfer, discharge and the provision of all services regardless of the  
1047 source of payment; (24) shall not be required to waive any rights to  
1048 benefits under Medicare or Medicaid or to give oral or written  
1049 assurance that the patient is not eligible for, or will not apply for  
1050 benefits under Medicare or Medicaid; (25) is entitled to be provided  
1051 information by the facility as to how to apply for Medicare or  
1052 Medicaid benefits and how to receive refunds for previous payments  
1053 covered by such benefits; (26) on or after October 1, [1990] 2008, shall  
1054 not be required to [give a third party guarantee of] bind or obligate a  
1055 third party for payment by such third party to the facility [as a  
1056 condition of] in connection with the admission to, or continued stay in,  
1057 the facility; (27) in the case of an individual who is entitled to medical  
1058 assistance, is entitled to have the facility not charge, solicit, accept or  
1059 receive, in addition to any amount otherwise required to be paid under  
1060 Medicaid, any gift, money, donation or other consideration as a  
1061 precondition of admission or expediting the admission of the  
1062 individual to the facility or as a requirement for the individual's  
1063 continued stay in the facility; and (28) shall not be required to deposit  
1064 the patient's personal funds in the facility.

1065 (c) The patients' bill of rights shall provide that a patient in a rest  
1066 home with nursing supervision or a chronic and convalescent nursing  
1067 home may be transferred from one room to another within a facility  
1068 only for the purpose of promoting the patient's well-being, except as  
1069 provided pursuant to subparagraph (C) or (D) of this subsection or

1070 subsection (d) of this section. Whenever a patient is to be transferred,  
1071 the facility shall effect the transfer with the least disruption to the  
1072 patient and shall assess, monitor and adjust care as needed subsequent  
1073 to the transfer in accordance with subdivision (10) of subsection (b) of  
1074 this section. When a transfer is initiated by the facility and the patient  
1075 does not consent to the transfer, the facility shall establish a  
1076 consultative process that includes the participation of the attending  
1077 physician, a registered nurse with responsibility for the patient and  
1078 other appropriate staff in disciplines as determined by the patient's  
1079 needs, and the participation of the patient, the patient's family, a  
1080 person designated by the patient in accordance with section 1-56r or  
1081 other representative. The consultative process shall determine: (1)  
1082 What caused consideration of the transfer; (2) whether the cause can be  
1083 removed; and (3) if not, whether the facility has attempted alternatives  
1084 to transfer. The patient shall be informed of the risks and benefits of  
1085 the transfer and of any alternatives. If subsequent to the completion of  
1086 the consultative process a patient still does not wish to be transferred,  
1087 the patient may be transferred without the patient's consent, unless  
1088 medically contraindicated, only (A) if necessary to accomplish physical  
1089 plant repairs or renovations that otherwise could not be accomplished;  
1090 provided, if practicable, the patient, if the patient wishes, shall be  
1091 returned to the patient's room when the repairs or renovations are  
1092 completed; (B) due to irreconcilable incompatibility between or among  
1093 roommates, which is actually or potentially harmful to the well-being  
1094 of a patient; (C) if the facility has two vacancies available for patients of  
1095 the same sex in different rooms, there is no applicant of that sex  
1096 pending admission in accordance with the requirements of section 19a-  
1097 533 and grouping of patients by the same sex in the same room would  
1098 allow admission of patients of the opposite sex, which otherwise  
1099 would not be possible; (D) if necessary to allow access to specialized  
1100 medical equipment no longer needed by the patient and needed by  
1101 another patient; or (E) if the patient no longer needs the specialized  
1102 services or programming that is the focus of the area of the facility in  
1103 which the patient is located. In the case of an involuntary transfer, the  
1104 facility shall, subsequent to completion of the consultative process,

1105 provide the patient and the patient's legally liable relative, guardian or  
1106 conservator if any or other responsible party if known, with at least  
1107 fifteen days' written notice of the transfer, which shall include the  
1108 reason for the transfer, the location to which the patient is being  
1109 transferred, and the name, address and telephone number of the  
1110 regional long-term care ombudsman, except that in the case of a  
1111 transfer pursuant to subparagraph (A) of this subsection at least thirty  
1112 days' notice shall be provided. Notwithstanding the provisions of this  
1113 subsection, a patient may be involuntarily transferred immediately  
1114 from one room to another within a facility to protect the patient or  
1115 others from physical harm, to control the spread of an infectious  
1116 disease, to respond to a physical plant or environmental emergency  
1117 that threatens the patient's health or safety or to respond to a situation  
1118 that presents a patient with an immediate danger of death or serious  
1119 physical harm. In such a case, disruption of patients shall be  
1120 minimized; the required notice shall be provided within twenty-four  
1121 hours after the transfer; if practicable, the patient, if the patient wishes,  
1122 shall be returned to the patient's room when the threat to health or  
1123 safety which prompted the transfer has been eliminated; and, in the  
1124 case of a transfer effected to protect a patient or others from physical  
1125 harm, the consultative process shall be established on the next business  
1126 day.

1127 (d) Notwithstanding the provisions of subsection (c) of this section,  
1128 unless medically contraindicated, a patient who is a Medicaid recipient  
1129 may be transferred from a private to a nonprivate room. In the case of  
1130 such a transfer, the facility shall (1) give at least thirty days' written  
1131 notice to the patient and the patient's legally liable relative, guardian  
1132 or conservator, if any, a person designated by the patient in accordance  
1133 with section 1-56r or other responsible party, if known, which notice  
1134 shall include the reason for the transfer, the location to which the  
1135 patient is being transferred and the name, address and telephone  
1136 number of the regional long-term care ombudsman; and (2) establish a  
1137 consultative process to effect the transfer with the least disruption to  
1138 the patient and assess, monitor and adjust care as needed subsequent

1139 to the transfer in accordance with subdivision (10) of subsection (b) of  
 1140 this section. The consultative process shall include the participation of  
 1141 the attending physician, a registered nurse with responsibility for the  
 1142 patient and other appropriate staff in disciplines as determined by the  
 1143 patient's needs, and the participation of the patient, the patient's  
 1144 family, a person designated by the patient in accordance with section  
 1145 1-56r or other representative.

1146 (e) [Any facility that negligently deprives a patient of any right or  
 1147 benefit created or established for the well-being of the patient by the  
 1148 provisions of this section shall be liable to such patient in a private  
 1149 cause of action for injuries suffered as a result of such deprivation.  
 1150 Upon a finding that a patient has been deprived of such a right or  
 1151 benefit, and that the patient has been injured as a result of such  
 1152 deprivation, damages shall be assessed in the amount sufficient to  
 1153 compensate such patient for such injury.] The rights or benefits  
 1154 specified in subsections (b), (c) and (d) of this section may not be  
 1155 reduced, rescinded or abrogated by contract. Any facility that fails to  
 1156 comply with any provision of this section with respect to any patient  
 1157 shall be liable to such patient in a private cause of action for damages.  
 1158 In addition, where the [deprivation of any such right or benefit] failure  
 1159 is found to have been wilful or in reckless disregard of the rights of the  
 1160 patient, punitive damages may be assessed. A patient may also  
 1161 maintain an action pursuant to this section for any other type of relief,  
 1162 including injunctive and declaratory relief, permitted by law.  
 1163 Exhaustion of any available administrative remedies shall not be  
 1164 required prior to commencement of suit under this section.

1165 (f) In addition to the rights specified in subsections (b), (c) and (d) of  
 1166 this section, a patient in a nursing home facility is entitled to have the  
 1167 facility manage the patient's funds as provided in section 19a-551."

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2008	New section

Sec. 2	<i>July 1, 2008</i>	New section
Sec. 3	<i>July 1, 2008</i>	17b-351
Sec. 4	<i>from passage</i>	17b-352
Sec. 5	<i>from passage</i>	17b-339
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	17b-4
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>October 1, 2008</i>	New section
Sec. 11	<i>October 1, 2008</i>	19a-490
Sec. 12	<i>October 1, 2008</i>	19a-491(b)
Sec. 13	<i>October 1, 2008</i>	19a-493(b)(2)
Sec. 14	<i>October 1, 2008</i>	19a-498
Sec. 15	<i>October 1, 2008</i>	19a-503
Sec. 16	<i>October 1, 2008</i>	19a-528a
Sec. 17	<i>October 1, 2008</i>	19a-543
Sec. 18	<i>from passage</i>	19a-546
Sec. 19	<i>October 1, 2008</i>	19a-547
Sec. 20	<i>October 1, 2008</i>	19a-561
Sec. 21	<i>October 1, 2008</i>	19a-550