



# House of Representatives

General Assembly

**File No. 322**

February Session, 2012

Substitute House Bill No. 5499

*House of Representatives, April 10, 2012*

The Committee on Public Health reported through REP. RITTER, E. of the 38th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING REGULATIONS RELATING TO HOSPICE CARE.**

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

1 Section 1. Section 19a-122b of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective from passage*):

3 (a) Notwithstanding the provisions of chapters 368v and 368z, an  
4 organization licensed as a hospice [pursuant to the Public Health  
5 Code] by the Department of Public Health or certified as a hospice  
6 pursuant to 42 USC 1395x, shall be authorized to operate a hospice  
7 facility, including a hospice residence, for the purpose of providing  
8 hospice services for terminally ill persons [, for the purpose of  
9 providing hospice home care arrangements including, but not limited  
10 to, hospice home care services and supplemental] who are in need of  
11 hospice home care or hospice inpatient services. Such arrangements  
12 shall be provided to those patients who would otherwise receive such  
13 care from family members. The facility or residence shall provide a  
14 homelike atmosphere for such patients for a time period deemed

15 appropriate for home health care services under like circumstances.  
16 Any hospice that operates a facility or residence pursuant to the  
17 provisions of this section shall cooperate with the Commissioner of  
18 Public Health to develop standards for the licensure and operation of  
19 such [homes] facility or residence.

20 (b) On and after January 1, 2008, any organization seeking initial  
21 licensure as a hospice by the Department of Public Health shall (1)  
22 agree to provide hospice care services for terminally ill persons on a  
23 twenty-four-hour basis in all settings including, but not limited to, a  
24 private home, nursing home, residential care home or specialized  
25 residence that provides supportive services, and (2) present to the  
26 department satisfactory evidence that such organization has the  
27 necessary qualified personnel to provide services in such settings.

28 (c) No organization may use the title "hospice" or "hospice care  
29 program" or make use of any title, words, letters or abbreviations  
30 indicating or implying that such organization is licensed to provide  
31 hospice services unless such organization is licensed to provide such  
32 services by the Department of Public Health and certified as a hospice  
33 pursuant to 42 USC 1395x.

34 Sec. 2. Subsection (a) of section 19a-490 of the general statutes is  
35 repealed and the following is substituted in lieu thereof (*Effective from*  
36 *passage*):

37 (a) "Institution" means a hospital, residential care home, health care  
38 facility for the handicapped, nursing home, rest home, home health  
39 care agency, homemaker-home health aide agency, mental health  
40 facility, assisted living services agency, substance abuse treatment  
41 facility, outpatient surgical facility, short-term hospital special hospice,  
42 hospice facility, an infirmary operated by an educational institution for  
43 the care of students enrolled in, and faculty and employees of, such  
44 institution; a facility engaged in providing services for the prevention,  
45 diagnosis, treatment or care of human health conditions, including  
46 facilities operated and maintained by any state agency, except facilities  
47 for the care or treatment of mentally ill persons or persons with

48 substance abuse problems; and a residential facility for the mentally  
49 retarded licensed pursuant to section 17a-227 and certified to  
50 participate in the Title XIX Medicaid program as an intermediate care  
51 facility for the mentally retarded;

52 Sec. 3. Subsection (a) of section 19a-495 of the 2012 supplement to  
53 the general statutes is repealed and the following is substituted in lieu  
54 thereof (*Effective from passage*):

55 (a) The Department of Public Health shall, after consultation with  
56 the appropriate public and voluntary hospital planning agencies,  
57 establish classifications of institutions. The department shall [, in the  
58 Public Health Code,] adopt, amend, promulgate and enforce such  
59 regulations based upon reasonable standards of health, safety and  
60 comfort of patients and demonstrable need for such institutions, with  
61 respect to each classification of institutions to be licensed under  
62 sections 19a-490 to 19a-503, inclusive, as amended by this act,  
63 including their special facilities, as will further the accomplishment of  
64 the purposes of said sections in promoting safe, humane and adequate  
65 care and treatment of individuals in institutions. The department shall  
66 adopt such regulations, in accordance with chapter 54, concerning  
67 home health care agencies and homemaker-home health aide agencies.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-122b
Sec. 2	<i>from passage</i>	19a-490(a)
Sec. 3	<i>from passage</i>	19a-495(a)

**PH** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 13 \$</b>	<b>FY 14 \$</b>
Public Health, Dept.	GF - Revenue Gain	approx. 2,000	approx. 1,000

Note: GF=General Fund

**Municipal Impact:** None

### **Explanation**

The bill results in an anticipated General Fund revenue gain of approximately \$2,000 in FY 13 and \$1,000 in FY 14 from the licensing of two short-term hospital special hospices or hospice facilities in FY 13 and one in FY 14. These two categories of a health care institution are added under the bill, extending to these entities statutory requirements for health care institutions. As such, these institutions would be required to be licensed by the Department of Public Health (DPH), resulting in a General Fund revenue gain from associated fees. As the number of such facilities seeking licensure is small, approximately three facilities every two years, no cost to DPH is anticipated to issue these licenses.

The fee for hospices licensure is \$940 and \$7.50 per bed biannually.<sup>1</sup> It is estimated that there are three short-term hospital special hospices or hospice facilities that would seek licensure in the two fiscal years following passage of this bill. Assuming an average of 9 beds per facility and two such facilities seeking licensure in FY 13 and one seeking licensure in FY 14, approximately \$2,000 in General Fund revenue gain is anticipated in FY 13 and approximately \$1,000 is anticipated in FY 14.

<sup>1</sup> Currently, there is one hospice licensed in Connecticut.

***The Out Years***

The fiscal impact identified above would continue into the future subject to the number of short-term hospital special hospices and hospice facilities licensed by DPH.

*Sources: Department of Public Health's Health Care Systems Branch*

**OLR Bill Analysis****sHB 5499*****AN ACT CONCERNING REGULATIONS RELATING TO HOSPICE CARE.*****SUMMARY:**

Current law authorizes a Department of Public Health- (DPH) licensed or Medicare-certified hospice to operate a specialized residence for the terminally ill that provides hospice home care and supportive services. The bill allows a hospice to also operate a "hospice facility" that provides hospice home care or hospice inpatient services. (The bill does not distinguish between a facility and a residence.)

The bill extends to a hospice facility, the current requirement that a residence (1) provide a home-like atmosphere for patients for an appropriate time period and (2) cooperate with the DPH commissioner to develop licensure and operational standards.

The bill also adds to the statutory definition of health care "institution" a "short-term hospital special hospice" and "hospice facility," but not a "hospice." These terms are not defined in statute but they appear in the department's proposed hospice regulations (see BACKGROUND). Thus, the bill extends to these entities statutory requirements for health care institutions, regarding, among other things, workplace safety committees, access to patient records, disclosure of HIV-related information, and smoking prohibitions.

The law requires DPH to consult with appropriate public and voluntary hospital planning agencies to establish classifications of licensed health care institutions. The bill maintains the current requirement that the department adopt, amend, promulgate, and enforce associated regulations, but removes the requirement that it do

so only in the Public Health Code.

EFFECTIVE DATE: Upon passage

## **BACKGROUND**

### ***DPH Proposed Hospice Regulations***

Currently, DPH regulates hospices that are considered free-standing or established as a distinct unit within a health care facility (e.g., inpatient hospice facilities). DPH regulations define “hospice” under the broader category of “short-term hospital special hospice.” Inpatient hospice facilities must meet a variety of requirements concerning physical plant, administration, staffing, records, and infection control. A home care program offered by an institutionally based hospice is also subject to DPH regulations. The program must address the physical, psychological, and spiritual needs of the patient and family and provide services 24 hours a day, seven days a week.

In March 2011, DPH published notice of its intent to amend these regulations to create a second licensure category for inpatient hospice facilities called “hospice facility.” The proposal keeps the existing “short-term hospital special hospice” licensure category so that facilities that want to continue to provide hospice services at a hospital level of care may do so. The new “hospital facility” licensure category would allow entities to create new facilities under regulations based on Medicare’s minimum regulatory requirements for inpatient hospital facilities (42 CFR § 418.110). (These requirements are less stringent than the department’s current short-term hospital special hospice regulations.)

DPH held a public hearing on the proposed regulations in April 2011. The proposal was submitted to the attorney general’s office for final review in March 2012 after which it will be submitted to the Regulation Review Committee for legislative approval.

## **COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 26 Nay 0 (03/26/2012)