



General Assembly

February Session, 2012

**Raised Bill No. 419**

LCO No. 2350

\* SB00419JUD\_\_040212\_\_ \*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING RESPONSIBLE PARTY AGREEMENTS AND  
THE MAINTENANCE OF PROFESSIONAL LIABILITY INSURANCE BY  
NURSING HOMES, HOME HEALTH CARE AGENCIES AND  
HOMEMAKER-HOME HEALTH AIDE AGENCIES.**

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

1 Section 1. Section 19a-539 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) Each nursing home facility shall disclose in writing to all  
4 prospective patients a complete and accurate list of all additional costs  
5 which may be incurred by [them] such prospective patients and such  
6 nursing home facility shall display or cause to be displayed copies of  
7 such list in conspicuous places therein.

8 (b) [Nursing home facilities, as defined in section 19a-521, shall be  
9 prohibited from enforcing a surety contract on behalf of an applicant  
10 required as a condition of admission] Each nursing home facility shall  
11 be prohibited from enforcing a contract with a third-party guarantor or  
12 an admission agreement entered into with a responsible party who has  
13 access to the assets or financial information of a nursing home facility  
14 applicant or resident unless: (1) The guarantor under such contract or

15 [his spouse or his children or his grandchildren] the guarantor's  
16 spouse, child or grandchild has received an assignment or transfer or  
17 other disposition of property for less than fair market value, pursuant  
18 to section 17b-261, from the applicant; or (2) the applicant fails to  
19 return a properly completed application for Title XIX benefits to the  
20 Department of Social Services in accordance with its regulations; and  
21 (3) such contract contains a [clause which states the] notice advising  
22 the applicant, third-party guarantor or responsible party that: (A) The  
23 contract is enforceable against the guarantor or [his spouse or his  
24 children or his grandchildren] the guarantor's spouse, child or  
25 grandchild if such guarantor or [his spouse or his children or his  
26 grandchildren have] the guarantor's spouse, child or grandchild has  
27 received an assignment or transfer or other disposition of property for  
28 less than fair market value, pursuant to section 17b-261, from the  
29 applicant or if said applicant fails to return a properly completed  
30 application for Title XIX benefits to the Department of Social Services  
31 in accordance with its regulations; (B) state and federal law prohibit a  
32 nursing home facility from requiring a third party to personally  
33 guarantee payment as a condition of admission or continued stay in  
34 the facility; and (C) due to the complexity involved in preparing an  
35 application for Title XIX benefits, it may be advisable for the person  
36 completing such application to seek professional assistance or legal  
37 advice. Such notice shall be in writing in not less than ten-point,  
38 boldface type, shall be stated in plain and simple language and,  
39 whenever possible and in accordance with any applicable federal  
40 guidelines, shall be in the primary language of the recipient.

41 (c) A nursing home facility may prepare and submit an application  
42 for Title XIX benefits to the Department of Social Services on behalf of  
43 a person residing in or seeking admission to the nursing home facility,  
44 provided such person or such person's authorized representative  
45 authorizes, in writing, the nursing home facility to prepare and submit  
46 an application for Title XIX benefits on such person's behalf.

47 [(c)] (d) Nothing in this section shall be interpreted as prohibiting  
48 the acceptance of a voluntary surety contract.

49       Sec. 2. Section 19a-491a of the general statutes is repealed and the  
50 following is substituted in lieu thereof (*Effective January 1, 2013*):

51       (a) A person seeking a license to establish, conduct, operate or  
52 maintain a nursing home shall provide the Department of Public  
53 Health with the following information:

54       (1) (A) The name and business address of the owner and a statement  
55 of whether the owner is an individual, partnership, corporation or  
56 other legal entity; (B) the names of the officers, directors, trustees, or  
57 managing and general partners of the owner, the names of persons  
58 having a ten per cent or greater ownership interest in the owner, and a  
59 description of each such person's occupation with the owner; and (C) if  
60 the owner is a corporation which is incorporated in another state, a  
61 certificate of good standing from the secretary of state of the state of  
62 incorporation;

63       (2) A description of the relevant business experience of the owner  
64 and of the administrator of the nursing home and evidence that the  
65 administrator has a license issued pursuant to section 19a-514;

66       (3) Affidavits signed by the owner, any of the persons described in  
67 subdivision (1) of this subsection, the administrator, assistant  
68 administrator, the medical director, the director of nursing and  
69 assistant director of nursing disclosing any matter in which such  
70 person has been convicted of a felony, as defined in section 53a-25, or  
71 has pleaded nolo contendere to a felony charge, or has been held liable  
72 or enjoined in a civil action by final judgment, if the felony or civil  
73 action involved fraud, embezzlement, fraudulent conversion or  
74 misappropriation of property; or is subject to an injunction or  
75 restrictive or remedial order of a court of record at the time of  
76 application, within the past five years has had any state or federal  
77 license or permit suspended or revoked as a result of an action brought  
78 by a governmental agency or department, arising out of or relating to  
79 health care business activity, including, but not limited to, actions  
80 affecting the operation of a nursing home, retirement home, residential

81 care home or any facility subject to sections 17b-520 to 17b-535,  
82 inclusive, or a similar statute in another state or country;

83 (4) (A) A statement as to whether or not the owner is, or is affiliated  
84 with, a religious, charitable or other nonprofit organization; (B) the  
85 extent of the affiliation, if any; (C) the extent to which the affiliate  
86 organization will be responsible for the financial obligations of the  
87 owner; and (D) the provision of the Internal Revenue Code of 1986, or  
88 any subsequent corresponding internal revenue code of the United  
89 States, as from time to time amended, if any, under which the owner or  
90 affiliate is exempt from the payment of income tax;

91 (5) The location and a description of other health care facilities of the  
92 owner, existing or proposed, and, if proposed, the estimated  
93 completion date or dates and whether or not construction has begun;  
94 and

95 (6) If the operation of the nursing home has not yet commenced, a  
96 statement of the anticipated source and application of the funds used  
97 or to be used in the purchase or construction of the home, including:

98 (A) An estimate of such costs as financing expense, legal expense,  
99 land costs, marketing costs and other similar costs which the owner  
100 expects to incur or become obligated for prior to the commencement of  
101 operations; and

102 (B) A description of any mortgage loan or any other financing  
103 intended to be used for the financing of the nursing home, including  
104 the anticipated terms and costs of such financing.

105 (b) In addition to the information provided pursuant to subsection  
106 (a) of this section, the commissioner may reasonably require an  
107 applicant for a nursing home license or renewal of a nursing home  
108 license to submit additional information. Such information may  
109 include audited and certified financial statements of the owner,  
110 including, (1) a balance sheet as of the end of the most recent fiscal  
111 year, and (2) income statements for the most recent fiscal year of the

112 owner or such shorter period of time as the owner shall have been in  
113 existence.

114 (c) No person acting individually or jointly with any other person  
115 shall establish, conduct, operate or maintain a nursing home without  
116 maintaining professional liability insurance or other indemnity against  
117 liability for professional malpractice. The amount of insurance which  
118 such person shall maintain as insurance or indemnity against claims  
119 for injury or death for professional malpractice shall be not less than  
120 one million dollars for one person, per occurrence, with an aggregate  
121 of not less than three million dollars.

122 [(c)] (d) A person seeking to renew a nursing home license shall  
123 furnish the department with any information required under  
124 [subsection (a) of] this section that was not previously submitted and  
125 with satisfactory written proof that the owner of the nursing home  
126 consents to such renewal, if the owner is different from the person  
127 seeking renewal, and shall provide data on any change in the  
128 information submitted. The commissioner shall refuse to issue or  
129 renew a nursing home license if the person seeking renewal fails to  
130 provide the information required under this section. Upon such  
131 refusal, the commissioner shall grant such license to the holder of the  
132 certificate of need, provided such holder meets all requirements for  
133 such licensure. If such holder does not meet such requirements, the  
134 commissioner shall proceed in accordance with sections 19a-541 to 19a-  
135 549, inclusive. If the commissioner is considering a license renewal  
136 application pursuant to an order of the commissioner, the procedures  
137 in this subsection shall apply to such consideration.

138 Sec. 3. Section 19a-491 of the 2012 supplement to the general statutes  
139 is repealed and the following is substituted in lieu thereof (*Effective*  
140 *January 1, 2013*):

141 (a) No person acting individually or jointly with any other person  
142 shall establish, conduct, operate or maintain an institution in this state  
143 without a license as required by this chapter, except for persons issued

144 a license by the Commissioner of Children and Families pursuant to  
145 section 17a-145 for the operation of (1) a substance abuse treatment  
146 facility, or (2) a facility for the purpose of caring for women during  
147 pregnancies and for women and their infants following such  
148 pregnancies. Application for such license shall be made to the  
149 Department of Public Health upon forms provided by it and shall  
150 contain such information as the department requires, which may  
151 include affirmative evidence of ability to comply with reasonable  
152 standards and regulations prescribed under the provisions of this  
153 chapter. The commissioner may require as a condition of licensure that  
154 an applicant sign a consent order providing reasonable assurances of  
155 compliance with the Public Health Code. The commissioner may issue  
156 more than one chronic disease hospital license to a single institution  
157 until such time as the state offers a rehabilitation hospital license.

158 (b) If any person acting individually or jointly with any other person  
159 owns real property or any improvements thereon, upon or within  
160 which an institution, as defined in subsection (c) of section 19a-490, is  
161 established, conducted, operated or maintained and is not the licensee  
162 of the institution, such person shall submit a copy of the lease  
163 agreement to the department at the time of any change of ownership  
164 and with each license renewal application. The lease agreement shall,  
165 at a minimum, identify the person or entity responsible for the  
166 maintenance and repair of all buildings and structures within which  
167 such an institution is established, conducted or operated. If a violation  
168 is found as a result of an inspection or investigation, the commissioner  
169 may require the owner to sign a consent order providing assurances  
170 that repairs or improvements necessary for compliance with the  
171 provisions of the Public Health Code shall be completed within a  
172 specified period of time or may assess a civil penalty of not more than  
173 one thousand dollars for each day that such owner is in violation of the  
174 Public Health Code or a consent order. A consent order may include a  
175 provision for the establishment of a temporary manager of such real  
176 property who has the authority to complete any repairs or  
177 improvements required by such order. Upon request of the

178 Commissioner of Public Health, the Attorney General may petition the  
179 Superior Court for such equitable and injunctive relief as such court  
180 deems appropriate to ensure compliance with the provisions of a  
181 consent order. The provisions of this subsection shall not apply to any  
182 property or improvements owned by a person licensed in accordance  
183 with the provisions of subsection (a) of this section to establish,  
184 conduct, operate or maintain an institution on or within such property  
185 or improvements.

186 (c) Notwithstanding any regulation to the contrary, the  
187 Commissioner of Public Health shall charge the following fees for the  
188 biennial licensing and inspection of the following institutions: (1)  
189 Chronic and convalescent nursing homes, per site, four hundred forty  
190 dollars; (2) chronic and convalescent nursing homes, per bed, five  
191 dollars; (3) rest homes with nursing supervision, per site, four hundred  
192 forty dollars; (4) rest homes with nursing supervision, per bed, five  
193 dollars; (5) outpatient dialysis units and outpatient surgical facilities,  
194 six hundred twenty-five dollars; (6) mental health residential facilities,  
195 per site, three hundred seventy-five dollars; (7) mental health  
196 residential facilities, per bed, five dollars; (8) hospitals, per site, nine  
197 hundred forty dollars; (9) hospitals, per bed, seven dollars and fifty  
198 cents; (10) nonstate agency educational institutions, per infirmary, one  
199 hundred fifty dollars; and (11) nonstate agency educational  
200 institutions, per infirmary bed, twenty-five dollars.

201 (d) Notwithstanding any regulation, the commissioner shall charge  
202 the following fees for the triennial licensing and inspection of the  
203 following institutions: (1) Residential care homes, per site, five  
204 hundred sixty-five dollars; and (2) residential care homes, per bed,  
205 four dollars and fifty cents.

206 (e) The commissioner shall charge one thousand dollars for the  
207 licensing and inspection every four years of outpatient clinics that  
208 provide either medical or mental health service, and well-child clinics,  
209 except those operated by municipal health departments, health  
210 districts or licensed nonprofit nursing or community health agencies.

211 (f) The commissioner shall charge a fee of five hundred sixty-five  
212 dollars for the technical assistance provided for the design, review and  
213 development of an institution's construction, sale or change in  
214 ownership.

215 (g) The commissioner may require as a condition of the licensure of  
216 home health care agencies and homemaker-home health aide agencies  
217 that each agency meet minimum service quality standards. In the  
218 event the commissioner requires such agencies to meet minimum  
219 service quality standards as a condition of their licensure, the  
220 commissioner shall adopt regulations, in accordance with the  
221 provisions of chapter 54, to define such minimum service quality  
222 standards, which shall (1) allow for training of homemaker-home  
223 health aides by adult continuing education, (2) require a registered  
224 nurse to visit and assess each patient receiving homemaker-home  
225 health aide services as often as necessary based on the patient's  
226 condition, but not less than once every sixty days, and (3) require the  
227 assessment prescribed by subdivision (2) of this subsection to be  
228 completed while the homemaker-home health aide is providing  
229 services in the patient's home.

230 (h) No person acting individually or jointly with any other person  
231 shall establish, conduct, operate or maintain a home health care agency  
232 or homemaker-home health aide agency without maintaining  
233 professional liability insurance or other indemnity against liability for  
234 professional malpractice. The amount of insurance which such person  
235 shall maintain as insurance or indemnity against claims for injury or  
236 death for professional malpractice shall be not less than one million  
237 dollars for one person, per occurrence, with an aggregate of not less  
238 than three million dollars.

239 Sec. 4. Subdivision (1) of subsection (b) of section 19a-493 of the  
240 general statutes is repealed and the following is substituted in lieu  
241 thereof (*Effective January 1, 2013*):

242 (b) (1) A nursing home license may be renewed biennially after (A)

243 an unscheduled inspection conducted by the department, (B)  
244 submission of the information required by [subsections (a) and (c) of  
245 section 19a-491a and any other information required by the  
246 commissioner pursuant to subsection (b) of said] section 19a-491a, as  
247 amended by this act, and (C) submission of evidence satisfactory to the  
248 department that the nursing home is in compliance with the provisions  
249 of this chapter, the Public Health Code and licensing regulations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	19a-539
Sec. 2	<i>January 1, 2013</i>	19a-491a
Sec. 3	<i>January 1, 2013</i>	19a-491
Sec. 4	<i>January 1, 2013</i>	19a-493(b)(1)

**JUD**      *Joint Favorable*