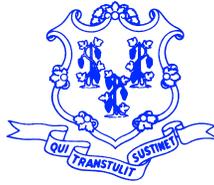


The Connecticut General Assembly

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Memorandum

To: Legislative Regulation Review Committee
From: Legislative Commissioners' Office
Committee Meeting Date: July 24, 2012

Regulation No:	2012-18A
Agency:	Department of Public Health
Subject Matter:	Short-term Hospitals, Special, Hospice and Hospice Inpatient Facilities
Statutory Authority: (copy attached)	19a-2a, 19a-36, 19a-122b, 19a-495

	Yes or No
Mandatory	N
Federal Requirement	N
Permissive	Y

For the Committee's Information:

1. This is a resubmittal of proposed regulations that were rejected without prejudice at the committee's meeting on June 26, 2012. The resubmittal addresses the substantive concerns and technical corrections noted in the June 26, 2012 report, except as noted below.
2. On July 23, 2012, the Department of Public Health submitted substitute pages 24 to 28, inclusive, and 41. This report is based, in part, on the substitute pages. The Department of Public Health submitted the substitute pages in a format that shows the changes proposed to be made to the resubmittal. Proposed deletions are bracketed and proposed additions are

underlined. On page 41 of the substitute pages, subdivision (2) (the top two lines of the page) should not have been included since subdivision (2) appears at the bottom of page 40 of the resubmittal.

3. The section of the proposed regulations concerning "Applicability", which was identified in the original submittal as section 19a-495-6b, is identified in the resubmittal as section 19a-495-5a. Subsequent sections and internal references have been renumbered accordingly in the resubmittal.

Substantive Concerns:

Technical Corrections:

1. On page 1, in the introductory language of Section 1, "The regulations for Connecticut State Agencies is amended by adding section 19a-495-5a to 19a-495-5b" should be "The Regulations of Connecticut State Agencies are amended by adding sections 19a-495-5a and 19a-495-5b", for accuracy and proper form.

2. "Section" should be inserted in the catchline before the section numbers on substitute page 26, on pages 29, 31, 34, 36, 38 and 40, on substitute page 41, in two places on pages 43 and 44 and in the catchline of Section 3 on page 46, for consistency and proper form.

3. On page 1, in the fifth line of section 19a-495-5a(a), "sections 19a-495-5b" should be "section 19a-495-5b", for accuracy. In the seventh line, "hospice facility" should be "hospice" for conformity with the defined term in this section. In the last sentence, three lines from the bottom of (a), "hospice facility" should be "hospice inpatient facility" for conformity with the defined term in sections 19a-495-6a to 19a-495-6m, inclusive. At the end of (a), "hospice facility" should be "hospice" for conformity with the defined term in this section.

4. On page 1, in the seventh line of section 19a-495-5a, "Department" should be "Department of Public Health", for clarity.

5. On pages 1 to 13, in section 19a-495-5b(a), paragraph designators "1." to "11." should be "(1)" to "(11)", for consistency and proper form.

6. On page 1, in the first line of section 19a-495-5b(a)1.(A), "a distinct hospice" should be "a distinct hospice unit", for clarity and consistency.

7. On page 1, in the last line of section 19a-495-5a(b), "Regulation of Connecticut State Agencies" should be "Regulations of Connecticut State Agencies", for proper form.

8. On page 2, in section 19a-495-5b(a) 1.(C), "The buildings" should be "The facilities and distinct hospice units", and on page 3, in section 19a-495-5b(a) 6.(B)(v), "building" should be "facility or hospice unit", for consistency.
9. On page 8, in section 19a-495-5b(a) 8.(R), "Building insulation" should be "Facility or hospice unit insulation", for consistency.
10. On page 10, in section 19a-495-5b(a) 9.(D)(ii)(IV), "forty nine" should be "forty-nine", for proper form.
11. On pages 12-13, in section 19a-495-5b(a)(10)(H)(i), in the first sentence, all semi-colons should be replaced with commas, for proper form.
12. On page 13, in the fifth line, in the second sentence of section 19a-495-5b(a) 10.(H)(i), a comma should be inserted after "subparagraph", for clarity.
13. On page 13, in section 19a-495-5b(b)(1)(A)(v)(IV), "members and chairperson of committees" should be "members and chairpersons of committees", for clarity.
14. On page 14, in section 19a-495-5b(b)(1)(C)(iii), the "and" should be "or", for consistency and accuracy.
15. On page 14, in section 19a-495-5b(b)(4), "or his family" should be deleted, for clarity and proper form.
16. On page 15, in section 19a-495-5b(d)(3), "his primary physician" should be "a primary physician", for accuracy and proper form.
17. On page 16, in the second sentence of section 19a-495-5b(d)(5), "his" should be "the patient's", for proper form.
18. On page 16, in section 19a-495-5b(d)(6), "state Department of Public Health" should be "Department of Public Health", for consistency.
19. On page 16, in the first and third lines of section 19a-495-5b(d)(8), "his" should be "the physician's", for proper form.
20. On page 16, in section 19a-495-5b(e), numbers should be expressed in words only, for consistency. The same correction should be made on page 39, in section 19a-495-6h(b).
21. On page 16, in section 19a-495-5b(e)(1), "who" should be deleted after "nursing service" and inserted after "patient care services", for accuracy and clarity.
22. On page 20, in section 19a-495-5b(n)(3), "the Commission on Dietetic Registration" should be the "Academy of Nutrition and Dietetics' Commission on Dietetic Registration", for accuracy.

23. On page 21, in section 19a-495-5b(o)(4), "his designee" should be "the hospice medical director's designee", for proper form.
24. Throughout sections 19a-495-6a to 19a-495-6m, inclusive, of the regulations, references to a facility that is the subject of the regulations should be consistent, for clarity. The defined term, "hospice inpatient facility" should be used consistently. Accordingly, "hospice" should be changed to "hospice inpatient facility" wherever used in these sections, as appropriate. For example, changes should be made on pages 23, 24 and substitute page 26 in section 19a-495-6a(2), (9), (10), (43) and (44), on page 29 in section 19a-495-6c(e)(1), on page 33 in section 19a-495-6d(e)(6), on pages 34 and 35 in section 19a-495-6e(b)(1) and (e)(1), on pages 36 and 38 in section 19a-495-6f(b)(2), (b)(11)(D) and (b)(12)(A) and (B). This is not an exhaustive list. "Hospice" need not be changed to "hospice inpatient facility" in cases where the term being used is "hospice care", or when "hospice" is not referring to the hospice inpatient facility, as in section 19a-495-5a(a).
25. On page 23, "Section 2. The regulations for Connecticut State Agencies are amended by adding sections 19a-495-6a to 19a-495-6m as follows;" should be "Sec. 2. The Regulations of Connecticut State Agencies are amended by adding sections 19a-495-6a to 19a-495-6m, inclusive, as follows:", for proper form.
26. On page 23, in section 19a-495-6a, the "(a)" should be removed, as there is no "(b)", for proper form. Also, at the end of the introductory phrase, after "Agencies", there should be a colon, not a period, for proper form.
27. On substitute page 25, in section 19a-495-6a(a)(27) and 19a-495-6a(a)(30) to (33), the references to a subdivision of a statutory section should be deleted, for accuracy and proper form.
28. On substitute page 25, in section 19a-495-6a(a)(29), "and patient or family" should be "and the patient or family", for clarity and consistency.
29. On substitute page 25, in section 19a-495-6a(a)(34), the comma after "clinically competent care" should be removed, for clarity.
30. On substitute page 26, in section 19a-495-6a(a)(39), "acceptable standards of practice" should be "accepted standards of practice", for consistency.
31. On substitute page 26, in section 19a-495-6a(a)(42) and (43), the definitions should be moved to be in alphabetical order, and all numbering adjusted accordingly, for proper form.
32. On substitute page 27, in section 19a-495-6b(b)(2), "Connecticut General Statutes sections 53a-157b" should be "section 53a-157b of the Connecticut General Statutes", for consistency. The same correction should be made on the same page, in section 19a-495-6b(b)(3)~~(I)~~(J), where "Connecticut General Statutes section 19a-491a(a)(3)" should be "section 19a-491a(a) of the Connecticut General Statutes", for consistency.

33. On substitute page 27, in section 19a-495-6b(b)(3)(B), "assistive personnel" should be changed to "direct care employees", for clarity.
34. On substitute page 27, in section 19a-495-6b(b)(3)(K), since the statute provides the procedure for criminal history and patient abuse background checks, all language after "Connecticut General Statutes section 19a-491c" should be deleted, for accuracy. Also, the statutory reference should be rewritten as "section 19a-491c of the Connecticut General Statutes", for consistency.
35. On substitute page 27, in section 19a-491-6b(c)(1)(C), "section 19a-491a(a)(3) of the General Statutes" should be "section 19a-491a(a) of the Connecticut General Statutes", for consistency.
36. On substitute page 27, in section 19a-495-6c(1) to (4), inclusive, the five occurrences of "Department" or "Department of Public Health" should be "commissioner", for consistency and accuracy.
37. On page 30, in section 19a-495-6c(e)(11)(I), "to patient's physician" should be "to the patient's physician", for consistency.
38. On page 32, in section 19a-495-6d(c)(I), the "and" at the end of (I) should be moved to the end of (H), and the semi-colon prior to the "and" at the end of (I) should be changed to a period, for clarity.
39. On page 32, in section 19a-495-6d(d)(2), "not" should be capitalized, for consistency.
40. On page 33, in section 19a-495-6d(g), several occurrences of "hospice inpatient facility" should be changed to "licensee", for clarity and accuracy. This change should be made in two places in the intro language in (g), in (g)(1), (g)(2), (g)(5) and (g)(11). The same change should be made on page 34, in section 19a-495-6e(a) and on page 43, in section 19a-495-6k(a).
41. On page 33, in section 19a-495-6d(g)(4), "governing authority of the" should be inserted in front of "hospice inpatient facility", for clarity and accuracy.
42. On page 33, in section 19a-495-6d(g)(11), "medical record to be provided" should be "medical record shall be provided", for clarity.
43. On page 35, in section 19a-495-6e(c), "by hospice inpatient facility or by a contractor under written agreement with the hospice inpatient facility" should be "directly by the licensee or by a contractor under written agreement with the licensee", for clarity and accuracy.
44. On page 35, in section 19a-495-6e(f), "criteria including" should be "criteria providing for", for clarity.
45. On page 36, in section 19a-495-6f(b)(5)(C), "patient's diets" should be "patients' diets", for accuracy.

46. On page 38, in section 19a-495-6g(a)(2), in the second line, "for" should be changed to "concerning", for clarity.

47. On page 41, in section 19a-495-6j(b), "assessment for the patient shall include but not limited to" should be "assessment for the patient that shall include but not be limited to", for clarity.

48. On page 43, in section 19a-495-6k(c)(2), "is" should be inserted after "policy", for clarity.

49. On page 43, in section 19a-495-6k(e), "shall be stored all in a secure area" should be "shall be stored in a secure area", for clarity.

50. On page 44, in section 19a-495-6m(a), "All buildings" should be "All hospice inpatient facilities", in section 19a-495-6m(a)(2), "maintain the building, systems" should be "maintain the hospice inpatient facility, systems" and, in section 19a-495-6m(a)(3), "building occupants" should be "hospice inpatient facility occupants", for consistency.

51. On page 45, in section 19a-495-6m(f)(1), "the building" should be "the hospice inpatient facility", for consistency.

52. On page 45, in section 19a-495-6m(g)(3), "family" should be "Family", for consistency.

Recommendation:

- | | |
|----------|--|
| X | Approval in whole |
| X | with technical corrections |
| X | with deletions |
| X | with substitute pages |
| | Disapproval in whole or in part |
| | Rejection without prejudice |

Reviewed by: Anne Brennan Carroll / Larry Shapiro

Date: July 23, 2012

Section 19a-2a. Powers and duties. The Commissioner of Public Health shall employ the most efficient and practical means for the prevention and suppression of disease and shall administer all laws under the jurisdiction of the Department of Public Health and the Public Health Code. The commissioner shall have responsibility for the overall operation and administration of the Department of Public Health. The commissioner shall have the power and duty to: (1) Administer, coordinate and direct the operation of the department; (2) adopt and enforce regulations, in accordance with chapter 54, as are necessary to carry out the purposes of the department as established by statute; (3) establish rules for the internal operation and administration of the department; (4) establish and develop programs and administer services to achieve the purposes of the department as established by statute; (5) contract for facilities, services and programs to implement the purposes of the department as established by statute; (6) designate a deputy commissioner or other employee of the department to sign any license, certificate or permit issued by said department; (7) conduct a hearing, issue subpoenas, administer oaths, compel testimony and render a final decision in any case when a hearing is required or authorized under the provisions of any statute dealing with the Department of Public Health; (8) with the health authorities of this and other states, secure information and data concerning the prevention and control of epidemics and conditions affecting or endangering the public health, and compile such information and statistics and shall disseminate among health authorities and the people of the state such information as may be of value to them; (9) annually issue a list of reportable diseases, emergency illnesses and health conditions and a list of reportable laboratory findings and amend such lists as the commissioner deems necessary and distribute such lists as well as any necessary forms to each licensed physician and clinical laboratory in this state. The commissioner shall prepare printed forms for reports and returns, with such instructions as may be necessary, for the use of directors of health, boards of health and registrars of vital statistics; (10) specify uniform methods of keeping statistical information by public and private agencies, organizations and individuals, including a client identifier system, and collect and make available relevant statistical information, including the number of persons treated, frequency of admission and readmission, and frequency and duration of treatment. The client identifier system shall be subject to the confidentiality requirements set forth in section 17a-688 and regulations adopted thereunder. The commissioner may designate any person to perform any of the duties listed in subdivision (7) of this section. The commissioner shall have authority over

directors of health and may, for cause, remove any such director; but any person claiming to be aggrieved by such removal may appeal to the Superior Court which may affirm or reverse the action of the commissioner as the public interest requires. The commissioner shall assist and advise local directors of health in the performance of their duties, and may require the enforcement of any law, regulation or ordinance relating to public health. When requested by local directors of health, the commissioner shall consult with them and investigate and advise concerning any condition affecting public health within their jurisdiction. The commissioner shall investigate nuisances and conditions affecting, or that he or she has reason to suspect may affect, the security of life and health in any locality and, for that purpose, the commissioner, or any person authorized by the commissioner, may enter and examine any ground, vehicle, apartment, building or place, and any person designated by the commissioner shall have the authority conferred by law upon constables. Whenever the commissioner determines that any provision of the general statutes or regulation of the Public Health Code is not being enforced effectively by a local health department, he or she shall forthwith take such measures, including the performance of any act required of the local health department, to ensure enforcement of such statute or regulation and shall inform the local health department of such measures. In September of each year the commissioner shall certify to the Secretary of the Office of Policy and Management the population of each municipality. The commissioner may solicit and accept for use any gift of money or property made by will or otherwise, and any grant of or contract for money, services or property from the federal government, the state or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant or contract. The commissioner may establish state-wide and regional advisory councils.

Sec. 19a-36. (Formerly Sec. 19-13). Public Health Code. Fees. Swimming pools. Wells: Use, replacement and mitigation.

As amended by Public Act 12-80, effective October 1, 2012

(a) The Commissioner of Public Health shall establish a Public Health Code and, from time to time, amend the same. The Public Health Code may provide for the preservation and improvement of the public health.

(1) Said code may include regulations pertaining to retail food establishments, including, but not limited to, food service establishments, catering food service establishments and itinerant food vending establishments and the required permitting from local health departments or districts to operate such establishments.

(2) Drainage and toilet systems to be installed in any house or building arranged or designed for human habitation, or field sanitation provided for agricultural workers or migratory farm laborers, shall conform to minimum requirements prescribed in said code.

(3) Said code may include regulations requiring toilets and handwashing facilities in large stores, as defined in such regulations, in shopping centers and in places dispensing food or drink for consumption on the premises, for the use of patrons of such establishments, except that the provisions of such regulations shall not apply to such establishments constructed or altered pursuant to plans and specifications approved or building permits issued prior to October 1, 1977.

(4) The provisions of such regulations (A) with respect to the requirement of employing a qualified food operator and any reporting requirements relative to such operator, shall not apply to an owner or operator of a soup kitchen who relies exclusively on services provided by volunteers, and (B) shall not prohibit the sale or distribution of food at a noncommercial function such as an educational, religious, political or charitable organization's bake sale or potluck supper provided the seller or person distributing such food maintains such food under the temperature, pH level and water activity level conditions that will inhibit the rapid and progressive growth of infectious or toxigenic microorganisms. For the purposes of this section, a "noncommercial function" means a function where food is sold or distributed by a person not regularly engaged in the for profit business of selling such food.

(5) The provisions of such regulations with respect to qualified food operators shall require that the contents of the test administered to qualified food operators include elements testing the qualified food operator's knowledge of food allergies.

(6) Each regulation adopted by the Commissioner of Public Health shall state the date on which it shall take effect, and a copy of the regulation, signed by the Commissioner of Public Health, shall be filed in the office of the Secretary of the State and a copy sent by said commissioner to each director of health, and such regulation shall be published in such manner as the Commissioner of Public Health may determine.

(7) Any person who violates any provision of the Public Health Code shall be [fined not more than one hundred dollars or imprisoned not more than three months, or both] guilty of a class C misdemeanor.

(b) Notwithstanding any regulations to the contrary, the Commissioner of Public Health shall charge the following fees for the following services: (1) Review of plans for each public swimming pool, seven hundred fifty dollars; (2) review of each resubmitted plan for each public swimming pool, two hundred fifty dollars; (3) inspection of each public swimming pool, two hundred dollars; (4) reinspection of each public swimming pool, one hundred fifty dollars; (5) review of each small flow plan for subsurface sewage disposal, two hundred dollars; and (6) review of each large flow plan for subsurface sewage disposal, six hundred twenty-five dollars.

(c) Notwithstanding subsection (a) of this section, regulations governing the safety of swimming pools shall not require fences around naturally formed ponds subsequently converted to swimming pool use, provided the converted ponds (1) retain sloping sides common to natural ponds and (2) are on property surrounded by a fence.

(d) The local director of health may authorize the use of an existing private well, consistent with all applicable sections of the regulations of Connecticut state agencies, the installation of a replacement well at a single-family residential premises on property whose boundary is located within two hundred feet of an approved community water supply system, measured along a street, alley or easement, where (1) a premises that is not connected to the public water supply may replace a well used for domestic purposes if water quality testing is

performed at the time of the installation, and for at least every ten years thereafter, or for such time as requested by the local director of health, that demonstrates that the replacement well meets the water quality standards for private wells established in the Public Health Code, and provided there is no service to the premises by a public water supply, or (2) a premises served by a public water supply may utilize or replace an existing well or install a new well solely for irrigation purposes or other outdoor water uses provided such well is permanently and physically separated from the internal plumbing system of the premises and a reduced pressure device is installed to protect against a cross connection with the public water supply. Upon a determination by the local director of health that an irrigation well creates an unacceptable risk of injury to the health or safety of persons using the water, to the general public, or to any public water supply, the local director of health may issue an order requiring the immediate implementation of mitigation measures, up to and including permanent abandonment of the well, in accordance with the provisions of the Connecticut Well Drilling Code adopted pursuant to section 25-128. In the event a cross connection with the public water system is found, the owner of the system may terminate service to the premises.

Section 19a-122b. Hospice care programs and services. Initial licensing requirements. Prohibited use of terms "hospice" and "hospice care program".

As amended by Public Act 12-140, effective June 15, 2012

(a) [Notwithstanding the provisions of chapters 368v and 368z, an] An organization licensed as a hospice [pursuant to the Public Health Code or certified as a hospice pursuant to 42 USC 1395x,] by the Department of Public Health shall be authorized to (1) operate a hospice facility, including a hospice residence, that provides inpatient hospice services, or (2) provide hospice home care services for terminally ill persons. [, for the purpose of providing hospice home care arrangements including, but not limited to, hospice home care services and supplemental services.] Such [arrangements] services shall be provided to those patients who would otherwise receive such care from family members. The facility or residence shall provide a homelike atmosphere for such patients for a time period deemed appropriate for home health care services under like circumstances. Any hospice that operates a facility or residence pursuant to the provisions of this section shall cooperate with the Commissioner of Public Health to develop standards for the licensure and operation of such [homes] facility or residence.

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

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

Section 19a-495. (Formerly Sec. 19-580). Regulations re licensed institutions. Implementation of policies and procedures re medications. (a) The Department of Public Health shall, after consultation with the appropriate public and voluntary hospital planning agencies, establish classifications of institutions. The department shall, in the Public Health Code, adopt, amend, promulgate and enforce such regulations based upon reasonable standards of health, safety and comfort of patients and demonstrable need for such institutions, with respect to each classification of institutions to be licensed under sections 19a-490 to 19a-503, inclusive, including their special facilities, as will further the accomplishment of the purposes of said sections in promoting safe, humane and adequate care and treatment of individuals in institutions. The department shall adopt such regulations, in accordance with chapter 54, concerning home health care agencies and homemaker-home health aide agencies.

(b) The Department of Public Health, with the advice of the Department of Mental Health and Addiction Services, shall include in the regulations adopted pursuant to subsection (a) of this section, additional standards for community residences, as defined in section 19a-507a, which shall include, but not be limited to, standards for: (1) Safety, maintenance and administration; (2) protection of human rights; (3) staffing requirements; (4) administration of medication; (5) program goals and objectives; (6) services to be offered; and (7) population to be served.

(c) The commissioner may waive any provisions of the regulations affecting the physical plant requirements of residential care homes if the commissioner determines that such waiver would not endanger the health, safety or welfare of any resident. The commissioner may impose conditions, upon granting the waiver, that assure the health, safety and welfare of residents, and may revoke the waiver upon a finding that the health, safety or welfare of any resident has been jeopardized. The commissioner shall not grant a waiver that would result in a violation of the Fire Safety Code or State Building Code. The commissioner may adopt regulations, in accordance with chapter 54, establishing procedures for an application for a waiver pursuant to this subsection.

(d) The Commissioner of Public Health, in consultation with the Commissioner of Mental Health and Addiction Services, may implement policies and procedures,

in compliance with federal law, permitting licensed health care providers with prescriptive authority to prescribe medications to treat persons dependent on opiates in free standing substance abuse treatment facilities, licensed under section 19a-490, while in the process of adopting such policies and procedures in regulation form, provided the commissioner prints notice of the intent to adopt regulations in the Connecticut Law Journal not later than thirty days after the date of implementation of such policies and procedures. Policies and procedures implemented pursuant to this subsection shall be valid until the time final regulations are adopted.