



General Assembly

January Session, 2013

Raised Bill No. 5759

LCO No. 2302

* HB05759AGE 021413 *

Referred to Committee on AGING

Introduced by:
(AGE)

**AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS'
RECOMMENDATIONS FOR TECHNICAL CORRECTIONS TO THE
GENERAL STATUTES CONCERNING THE STANDING COMMITTEE
ON AGING.**

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

1 Section 1. Subsection (c) of section 3-123aa of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (c) There is established an advisory committee to the Connecticut
5 Homecare Option Program for the Elderly, which shall consist of the
6 State Treasurer, the Comptroller, the Commissioner of Social Services,
7 a representative of the Commission on Aging, the director of the long-
8 term care partnership policy program within the Office of Policy and
9 Management, and the cochairpersons and ranking members of the
10 joint standing committees of the General Assembly having cognizance
11 of matters relating to aging, human services and finance, revenue and
12 bonding, [and the cochairpersons and ranking members of the select
13 committee having cognizance of matters relating to aging,] or their
14 designees. The Governor shall appoint one provider of home care

15 services for the elderly and a physician specializing in geriatric care.
16 The advisory committee shall meet at least annually. The State
17 Comptroller shall convene the meetings of the committee.

18 Sec. 2. Subsection (c) of section 17b-339 of the general statutes is
19 repealed and the following is substituted in lieu thereof (*Effective from*
20 *passage*):

21 (c) Not later than January 1, 2010, and annually thereafter, the
22 committee shall submit a report on its activities to the joint standing
23 committees of the General Assembly having cognizance of matters
24 relating to aging, appropriations and the budgets of state agencies,
25 human services and public health, [and to the select committee of the
26 General Assembly having cognizance of matters relating to aging,] in
27 accordance with the provisions of section 11-4a.

28 Sec. 3. Subsection (a) of section 17b-340 of the general statutes is
29 repealed and the following is substituted in lieu thereof (*Effective from*
30 *passage*):

31 (a) The rates to be paid by or for persons aided or cared for by the
32 state or any town in this state to licensed chronic and convalescent
33 nursing homes, to chronic disease hospitals associated with chronic
34 and convalescent nursing homes, to rest homes with nursing
35 supervision, to licensed residential care homes, as defined by section
36 19a-490, and to residential facilities for the mentally retarded which are
37 licensed pursuant to section 17a-227 and certified to participate in the
38 Title XIX Medicaid program as intermediate care facilities for the
39 mentally retarded, for room, board and services specified in licensing
40 regulations issued by the licensing agency shall be determined
41 annually, except as otherwise provided in this subsection, after a
42 public hearing, by the Commissioner of Social Services, to be effective
43 July first of each year except as otherwise provided in this subsection.
44 Such rates shall be determined on a basis of a reasonable payment for
45 such necessary services, which basis shall take into account as a factor
46 the costs of such services. Cost of such services shall include

47 reasonable costs mandated by collective bargaining agreements with
48 certified collective bargaining agents or other agreements between the
49 employer and employees, provided "employees" shall not include
50 persons employed as managers or chief administrators or required to
51 be licensed as nursing home administrators, and compensation for
52 services rendered by proprietors at prevailing wage rates, as
53 determined by application of principles of accounting as prescribed by
54 said commissioner. Cost of such services shall not include amounts
55 paid by the facilities to employees as salary, or to attorneys or
56 consultants as fees, where the responsibility of the employees,
57 attorneys, or consultants is to persuade or seek to persuade the other
58 employees of the facility to support or oppose unionization. Nothing
59 in this subsection shall prohibit inclusion of amounts paid for legal
60 counsel related to the negotiation of collective bargaining agreements,
61 the settlement of grievances or normal administration of labor
62 relations. The commissioner may, in his discretion, allow the inclusion
63 of extraordinary and unanticipated costs of providing services which
64 were incurred to avoid an immediate negative impact on the health
65 and safety of patients. The commissioner may, in his discretion, based
66 upon review of a facility's costs, direct care staff to patient ratio and
67 any other related information, revise a facility's rate for any increases
68 or decreases to total licensed capacity of more than ten beds or changes
69 to its number of licensed rest home with nursing supervision beds and
70 chronic and convalescent nursing home beds. The commissioner may
71 so revise a facility's rate established for the fiscal year ending June 30,
72 1993, and thereafter for any bed increases, decreases or changes in
73 licensure effective after October 1, 1989. Effective July 1, 1991, in
74 facilities which have both a chronic and convalescent nursing home
75 and a rest home with nursing supervision, the rate for the rest home
76 with nursing supervision shall not exceed such facility's rate for its
77 chronic and convalescent nursing home. All such facilities for which
78 rates are determined under this subsection shall report on a fiscal year
79 basis ending on the thirtieth day of September. Such report shall be
80 submitted to the commissioner by the thirty-first day of December. The
81 commissioner may reduce the rate in effect for a facility which fails to

82 report on or before such date by an amount not to exceed ten per cent
83 of such rate. The commissioner shall annually, on or before the
84 fifteenth day of February, report the data contained in the reports of
85 such facilities to the joint standing committee of the General Assembly
86 having cognizance of matters relating to appropriations. For the cost
87 reporting year commencing October 1, 1985, and for subsequent cost
88 reporting years, facilities shall report the cost of using the services of
89 any nursing pool employee by separating said cost into two categories,
90 the portion of the cost equal to the salary of the employee for whom
91 the nursing pool employee is substituting shall be considered a
92 nursing cost and any cost in excess of such salary shall be further
93 divided so that seventy-five per cent of the excess cost shall be
94 considered an administrative or general cost and twenty-five per cent
95 of the excess cost shall be considered a nursing cost, provided if the
96 total nursing pool costs of a facility for any cost year are equal to or
97 exceed fifteen per cent of the total nursing expenditures of the facility
98 for such cost year, no portion of nursing pool costs in excess of fifteen
99 per cent shall be classified as administrative or general costs. The
100 commissioner, in determining such rates, shall also take into account
101 the classification of patients or boarders according to special care
102 requirements or classification of the facility according to such factors
103 as facilities and services and such other factors as he deems reasonable,
104 including anticipated fluctuations in the cost of providing such
105 services. The commissioner may establish a separate rate for a facility
106 or a portion of a facility for traumatic brain injury patients who require
107 extensive care but not acute general hospital care. Such separate rate
108 shall reflect the special care requirements of such patients. If changes
109 in federal or state laws, regulations or standards adopted subsequent
110 to June 30, 1985, result in increased costs or expenditures in an amount
111 exceeding one-half of one per cent of allowable costs for the most
112 recent cost reporting year, the commissioner shall adjust rates and
113 provide payment for any such increased reasonable costs or
114 expenditures within a reasonable period of time retroactive to the date
115 of enforcement. Nothing in this section shall be construed to require
116 the Department of Social Services to adjust rates and provide payment

117 for any increases in costs resulting from an inspection of a facility by
118 the Department of Public Health. Such assistance as the commissioner
119 requires from other state agencies or departments in determining rates
120 shall be made available to him at his request. Payment of the rates
121 established hereunder shall be conditioned on the establishment by
122 such facilities of admissions procedures which conform with this
123 section, section 19a-533 and all other applicable provisions of the law
124 and the provision of equality of treatment to all persons in such
125 facilities. The established rates shall be the maximum amount
126 chargeable by such facilities for care of such beneficiaries, and the
127 acceptance by or on behalf of any such facility of any additional
128 compensation for care of any such beneficiary from any other person
129 or source shall constitute the offense of aiding a beneficiary to obtain
130 aid to which he is not entitled and shall be punishable in the same
131 manner as is provided in subsection (b) of section 17b-97. For the fiscal
132 year ending June 30, 1992, rates for licensed residential care homes and
133 intermediate care facilities for the mentally retarded may receive an
134 increase not to exceed the most recent annual increase in the Regional
135 Data Resources Incorporated McGraw-Hill Health Care Costs:
136 Consumer Price Index (all urban)-All Items. Rates for newly certified
137 intermediate care facilities for the mentally retarded shall not exceed
138 one hundred fifty per cent of the median rate of rates in effect on
139 January 31, 1991, for intermediate care facilities for the mentally
140 retarded certified prior to February 1, 1991. Notwithstanding any
141 provision of this section, the Commissioner of Social Services may,
142 within available appropriations, provide an interim rate increase for a
143 licensed chronic and convalescent nursing home or a rest home with
144 nursing supervision for rate periods no earlier than April 1, 2004, only
145 if the commissioner determines that the increase is necessary to avoid
146 the filing of a petition for relief under Title 11 of the United States
147 Code; imposition of receivership pursuant to sections 19a-541 to 19a-
148 549, inclusive; or substantial deterioration of the facility's financial
149 condition that may be expected to adversely affect resident care and
150 the continued operation of the facility, and the commissioner
151 determines that the continued operation of the facility is in the best

152 interest of the state. The commissioner shall consider any requests for
153 interim rate increases on file with the department from March 30, 2004,
154 and those submitted subsequently for rate periods no earlier than
155 April 1, 2004. When reviewing a rate increase request the
156 commissioner shall, at a minimum, consider: (1) Existing chronic and
157 convalescent nursing home or rest home with nursing supervision
158 utilization in the area and projected bed need; (2) physical plant long-
159 term viability and the ability of the owner or purchaser to implement
160 any necessary property improvements; (3) licensure and certification
161 compliance history; (4) reasonableness of actual and projected
162 expenses; and (5) the ability of the facility to meet wage and benefit
163 costs. No rate shall be increased pursuant to this subsection in excess
164 of one hundred fifteen per cent of the median rate for the facility's peer
165 grouping, established pursuant to subdivision (2) of subsection (f) of
166 this section, unless recommended by the commissioner and approved
167 by the Secretary of the Office of Policy and Management after
168 consultation with the commissioner. Such median rates shall be
169 published by the Department of Social Services not later than April
170 first of each year. In the event that a facility granted an interim rate
171 increase pursuant to this section is sold or otherwise conveyed for
172 value to an unrelated entity less than five years after the effective date
173 of such rate increase, the rate increase shall be deemed rescinded and
174 the department shall recover an amount equal to the difference
175 between payments made for all affected rate periods and payments
176 that would have been made if the interim rate increase was not
177 granted. The commissioner may seek recovery from payments made to
178 any facility with common ownership. With the approval of the
179 Secretary of the Office of Policy and Management, the commissioner
180 may waive recovery and rescission of the interim rate for good cause
181 shown that is not inconsistent with this section, including, but not
182 limited to, transfers to family members that were made for no value.
183 The commissioner shall provide written quarterly reports to the joint
184 standing committees of the General Assembly having cognizance of
185 matters relating to aging, human services and appropriations and the
186 budgets of state agencies, [and to the select committee of the General

187 Assembly having cognizance of matters relating to aging,] that identify
 188 each facility requesting an interim rate increase, the amount of the
 189 requested rate increase for each facility, the action taken by the
 190 commissioner and the secretary pursuant to this subsection, and
 191 estimates of the additional cost to the state for each approved interim
 192 rate increase. Nothing in this subsection shall prohibit the
 193 commissioner from increasing the rate of a licensed chronic and
 194 convalescent nursing home or a rest home with nursing supervision
 195 for allowable costs associated with facility capital improvements or
 196 increasing the rate in case of a sale of a licensed chronic and
 197 convalescent nursing home or a rest home with nursing supervision,
 198 pursuant to subdivision (15) of subsection (f) of this section, if
 199 receivership has been imposed on such home.

200 Sec. 4. Subsection (b) of section 17b-369 of the general statutes is
 201 repealed and the following is substituted in lieu thereof (*Effective from*
 202 *passage*):

203 (b) (1) The Commissioner of Social Services shall submit, in
 204 accordance with this subdivision, a copy of any report on the Money
 205 Follows the Person demonstration project that the commissioner is
 206 required to submit to the Secretary of Health and Human Services and
 207 that pertains to (A) the status of the implementation of the Money
 208 Follows the Person demonstration project, (B) the anticipated date that
 209 the first eligible person or persons will be transitioned into the
 210 community, or (C) information concerning when and how the
 211 Department of Social Services will transition additional eligible
 212 persons into the community. The commissioner shall submit such copy
 213 to the joint standing [committee] committees of the General Assembly
 214 having cognizance of matters relating to aging and human services,
 215 [and to the select committee of the General Assembly having
 216 cognizance of matters relating to aging,] in accordance with the
 217 provisions of section 11-4a. Copies of reports prepared prior to
 218 October 1, 2009, shall be submitted by said date and copies of reports
 219 prepared thereafter shall be submitted semiannually.

220 (2) After October 1, 2009, if the commissioner has not prepared any
221 new reports for submission to the Secretary of Health and Human
222 Services for any six-month submission period under subdivision (1) of
223 this subsection, the commissioner shall prepare and submit a written
224 report in accordance with this subdivision to the joint standing
225 [committee] committees of the General Assembly having cognizance of
226 matters relating to aging and human services, [and to the select
227 committee of the General Assembly having cognizance of matters
228 relating to aging,] in accordance with the provisions of section 11-4a.
229 Such report shall include (A) the status of the implementation of the
230 Money Follows the Person demonstration project, (B) the anticipated
231 date that the first eligible person or persons will be transitioned into
232 the community, and (C) information concerning when and how the
233 Department of Social Services will transition additional eligible
234 persons into the community.

235 Sec. 5. Subsection (e) of section 17b-427 of the general statutes is
236 repealed and the following is substituted in lieu thereof (*Effective from*
237 *passage*):

238 (e) Not later than June 1, 2001, and annually thereafter, the
239 Insurance Commissioner, in conjunction with the Healthcare
240 Advocate, shall submit to the Governor and to the joint standing
241 committees of the General Assembly having cognizance of matters
242 relating to aging, human services and insurance, [and to the select
243 committee of the General Assembly having cognizance of matters
244 relating to aging,] a list of those Medicare organizations that have
245 failed to file any data, reports or information requested pursuant to
246 subsection (c) of this section.

247 Sec. 6. Subsection (e) of section 46b-59 of the general statutes is
248 repealed and the following is substituted in lieu thereof (*Effective from*
249 *passage*):

250 (e) If the Superior Court grants the right of visitation pursuant to
251 subsection [(c)] (b) of this section, the court shall set forth the terms

252 and conditions of visitation including, but not limited to, the schedule
 253 of visitation, including the dates or days, time and place or places in
 254 which the visitation can occur, whether overnight visitation will be
 255 allowed and any other terms and conditions that the court determines
 256 are in the best interest of the minor child, provided such conditions
 257 shall not be contingent upon any order of financial support by the
 258 court. In determining the best interest of the minor child, the court
 259 shall consider the wishes of the minor child if such minor child is of
 260 sufficient age and capable of forming an intelligent opinion. In
 261 determining the terms and conditions of visitation, the court may
 262 consider (1) the effect that such visitation will have on the relationship
 263 between the parents or guardians of the minor child and the minor
 264 child, and (2) the effect on the minor child of any domestic violence
 265 that has occurred between or among parents, grandparents, persons
 266 seeking visitation and the minor child.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	3-123aa(c)
Sec. 2	<i>from passage</i>	17b-339(c)
Sec. 3	<i>from passage</i>	17b-340(a)
Sec. 4	<i>from passage</i>	17b-369(b)
Sec. 5	<i>from passage</i>	17b-427(e)
Sec. 6	<i>from passage</i>	46b-59(e)

AGE *Joint Favorable*