



General Assembly

January Session, 2013

Raised Bill No. 6388

LCO No. 2660



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

AN ACT CONCERNING INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES.

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

1 Section 1. Subdivision (3) of section 17a-220 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2013*):

4 (3) "Certification" or "certified" means certification by the
5 Department of Public Health as an intermediate care facility for [the
6 mentally retarded] individuals with intellectual disabilities pursuant to
7 standards set forth in the rules and regulations published in Title 42,
8 Part 442, Subpart G of the Code of Federal Regulations;

9 Sec. 2. Subsections (a) to (c), inclusive, of section 17a-228 of the
10 general statutes are repealed and the following is substituted in lieu
11 thereof (*Effective October 1, 2013*):

12 (a) If a person with intellectual disability residing in a residential
13 facility for persons with intellectual disability licensed pursuant to

14 section 17a-227, but not certified to participate in the Title XIX
15 Medicaid program as an intermediate care facility for [the mentally
16 retarded] individuals with intellectual disabilities, qualifies for the
17 program of state supplementation to the Supplemental Security
18 Income Program, the Commissioner of Social Services shall pay, under
19 such qualifying program, on behalf of such person the rate established
20 pursuant to subsection (b) of section 17b-244 for room and board, after
21 a reasonable deduction, as determined by the commissioner, to reflect
22 such person's income. The Department of Developmental Services
23 shall pay the rate established pursuant to subsection (b) of section 17b-
24 244 for services other than room and board provided on behalf of any
25 person whose admission to the facility has been authorized by the
26 Department of Developmental Services.

27 (b) Notwithstanding the provisions of subsection (a) of this section,
28 persons residing in residential facilities for persons with intellectual
29 disability licensed pursuant to section 17a-227 and receiving state
30 payment for the cost of such services on October 1, 1983, shall be
31 deemed to have been authorized for admission by the Department of
32 Developmental Services. In addition, any person who is admitted to a
33 residential facility for persons with intellectual disability after October
34 1, 1983, and not later than December 31, 1983, which facility is licensed
35 pursuant to said section after October 1, 1983, and who is receiving
36 state payment for the cost of such services, shall be deemed to have
37 been authorized for admission by the Department of Developmental
38 Services if (1) not later than July 15, 1983, the applicant for licensure
39 owns or has an interest in the facility or land upon which the facility
40 shall be located, or concludes a closing transaction on any mortgage
41 loan secured by mortgage on such facility or land, (2) such facility is
42 licensed not later than December 31, 1983, and (3) the applicant for
43 licensure presents evidence to the Commissioner of Developmental
44 Services that commitments had been made by such applicant not later
45 than July 15, 1983, for the placement of individuals in such facility.

46 (c) The Department of Social Services shall continue to make

47 payments on behalf of persons residing, on or before October 1, 1983,
48 in residential facilities licensed pursuant to section 17a-227 on or before
49 October 1, 1983, but not certified as intermediate care facilities for [the
50 mentally retarded] individuals with intellectual disabilities, and on
51 behalf of persons authorized for admission into such facilities by the
52 Department of Developmental Services after October 1, 1983, who are
53 otherwise eligible for assistance under sections 17b-600 to 17b-604,
54 inclusive. Such payment shall be on the same basis and at the same
55 rate which is in effect on October 1, 1983, and shall continue to pay
56 such rate until the next succeeding annual rate is determined as
57 provided in section 17b-244 and in this section.

58 Sec. 3. Subsection (a) of section 17b-99a of the general statutes is
59 repealed and the following is substituted in lieu thereof (*Effective*
60 *October 1, 2013*):

61 (a) (1) For purposes of this section, "facility" means any facility
62 described in this subsection and for which rates are established
63 pursuant to section 17b-340, as amended by this act.

64 (2) The Commissioner of Social Services shall conduct any audit of a
65 licensed chronic and convalescent nursing home, chronic disease
66 hospital associated with a chronic and convalescent nursing home, a
67 rest home with nursing supervision, a licensed residential care home,
68 as defined in section 19a-490, as amended by this act and a residential
69 facility for [the mentally retarded] persons with intellectual disability
70 which is licensed pursuant to section 17a-227 and certified to
71 participate in the Title XIX Medicaid program as an intermediate care
72 facility for [the mentally retarded] individuals with intellectual
73 disabilities in accordance with the provisions of this section.

74 Sec. 4. Subsection (b) of section 17b-106 of the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective*
76 *October 1, 2013*):

77 (b) Effective July 1, 2011, the commissioner shall provide a state

78 supplement payment for recipients of Medicaid and the federal
79 Supplemental Security Income Program who reside in long-term care
80 facilities sufficient to increase their personal needs allowance to sixty
81 dollars per month. Such state supplement payment shall be made to
82 the long-term care facility to be deposited into the personal fund
83 account of each such recipient. For the purposes of this subsection,
84 "long-term care facility" means a licensed chronic and convalescent
85 nursing home, a chronic disease hospital, a rest home with nursing
86 supervision, an intermediate care facility for [the mentally retarded]
87 individuals with intellectual disabilities or a state humane institution.

88 Sec. 5. Section 17b-244a of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective October 1, 2013*):

90 In determining the service component of the rates to be paid by the
91 state under sections 17b-244 and 17b-246 to private facilities and
92 facilities operated by regional education service centers that are
93 licensed to provide residential care pursuant to section 17a-227, but not
94 certified to participate in the Title XIX Medicaid programs as
95 intermediate care facilities for [persons with mental retardation]
96 individuals with intellectual disabilities, the Commissioner of
97 Developmental Services shall consider for each facility the actual wage
98 and benefit costs for services and service providers, adjusted for
99 inflation, and said commissioner shall not establish a single fixed
100 amount for wage and benefit costs that is applicable to all such
101 facilities.

102 Sec. 6. Section 17b-260d of the general statutes is repealed and the
103 following is substituted in lieu thereof (*Effective October 1, 2013*):

104 The Commissioner of Social Services shall apply for a home and
105 community-based services waiver pursuant to Section 1915(c) of the
106 Social Security Act that will allow the commissioner to develop and
107 implement a program for the provision of home or community-based
108 services, as defined in 42 CFR 440.180, to not more than fifty persons

109 currently receiving services under the Medicaid program who (1) have
110 tested positive for human immunodeficiency virus or have acquired
111 immune deficiency syndrome, and (2) would remain eligible for
112 Medicaid if admitted to a hospital, nursing facility or intermediate care
113 facility for [the mentally retarded] individuals with intellectual
114 disabilities, or in the absence of the services that are requested under
115 such waiver, would require the Medicaid covered level of care
116 provided in such facilities.

117 Sec. 7. Section 17b-278 of the general statutes is repealed and the
118 following is substituted in lieu thereof (*Effective October 1, 2013*):

119 The Commissioner of Social Services shall amend the state's
120 Medicaid plan to increase to thirty-six days per year the number of
121 home leave absences allowed for a resident of an intermediate care
122 facility for [the mentally retarded] individuals with intellectual
123 disabilities who is receiving medical assistance.

124 Sec. 8. Subsection (a) of section 17b-280 of the general statutes is
125 repealed and the following is substituted in lieu thereof (*Effective*
126 *October 1, 2013*):

127 (a) The state shall reimburse for all legend drugs provided under
128 medical assistance programs administered by the Department of Social
129 Services at the lower of (1) the rate established by the Centers for
130 Medicare and Medicaid Services as the federal acquisition cost, (2) the
131 average wholesale price minus sixteen per cent, or (3) an equivalent
132 percentage as established under the Medicaid state plan.
133 Notwithstanding the provisions of this section, contingent upon
134 federal approval, on and after October 1, 2012, for independent
135 pharmacies, the state shall reimburse for such legend drugs at the
136 lower of (A) the rate established by the Centers for Medicare and
137 Medicaid Services as the federal acquisition cost, (B) the average
138 wholesale price minus fifteen per cent, or (C) an equivalent percentage
139 as established under the Medicaid state plan. The state shall pay a

140 professional fee of one dollar and seventy cents to licensed pharmacies
141 for each prescription dispensed to a recipient of benefits under a
142 medical assistance program administered by the Department of Social
143 Services in accordance with federal regulations. On and after
144 September 4, 1991, payment for legend and nonlegend drugs provided
145 to Medicaid recipients shall be based upon the actual package size
146 dispensed. Effective October 1, 1991, reimbursement for over-the-
147 counter drugs for such recipients shall be limited to those over-the-
148 counter drugs and products published in the Connecticut Formulary,
149 or the cross reference list, issued by the commissioner. The cost of all
150 over-the-counter drugs and products provided to residents of nursing
151 facilities, chronic disease hospitals, and intermediate care facilities for
152 [the mentally retarded] individuals with intellectual disabilities shall
153 be included in the facilities' per diem rate. Notwithstanding the
154 provisions of this subsection, no dispensing fee shall be issued for a
155 prescription drug dispensed to a ConnPACE or Medicaid recipient
156 who is a Medicare Part D beneficiary when the prescription drug is a
157 Medicare Part D drug, as defined in Public Law 108-173, the Medicare
158 Prescription Drug, Improvement, and Modernization Act of 2003.

159 Sec. 9. Section 17b-340 of the general statutes is repealed and the
160 following is substituted in lieu thereof (*Effective October 1, 2013*):

161 (a) The rates to be paid by or for persons aided or cared for by the
162 state or any town in this state to licensed chronic and convalescent
163 nursing homes, to chronic disease hospitals associated with chronic
164 and convalescent nursing homes, to rest homes with nursing
165 supervision, to licensed residential care homes, as defined by section
166 19a-490, as amended by this act, and to residential facilities for [the
167 mentally retarded] persons with intellectual disability which are
168 licensed pursuant to section 17a-227 and certified to participate in the
169 Title XIX Medicaid program as intermediate care facilities for [the
170 mentally retarded] individuals with intellectual disabilities, for room,
171 board and services specified in licensing regulations issued by the
172 licensing agency shall be determined annually, except as otherwise

173 provided in this subsection, after a public hearing, by the
174 Commissioner of Social Services, to be effective July first of each year
175 except as otherwise provided in this subsection. Such rates shall be
176 determined on a basis of a reasonable payment for such necessary
177 services, which basis shall take into account as a factor the costs of
178 such services. Cost of such services shall include reasonable costs
179 mandated by collective bargaining agreements with certified collective
180 bargaining agents or other agreements between the employer and
181 employees, provided "employees" shall not include persons employed
182 as managers or chief administrators or required to be licensed as
183 nursing home administrators, and compensation for services rendered
184 by proprietors at prevailing wage rates, as determined by application
185 of principles of accounting as prescribed by said commissioner. Cost of
186 such services shall not include amounts paid by the facilities to
187 employees as salary, or to attorneys or consultants as fees, where the
188 responsibility of the employees, attorneys, or consultants is to
189 persuade or seek to persuade the other employees of the facility to
190 support or oppose unionization. Nothing in this subsection shall
191 prohibit inclusion of amounts paid for legal counsel related to the
192 negotiation of collective bargaining agreements, the settlement of
193 grievances or normal administration of labor relations. The
194 commissioner may, in his discretion, allow the inclusion of
195 extraordinary and unanticipated costs of providing services which
196 were incurred to avoid an immediate negative impact on the health
197 and safety of patients. The commissioner may, in his discretion, based
198 upon review of a facility's costs, direct care staff to patient ratio and
199 any other related information, revise a facility's rate for any increases
200 or decreases to total licensed capacity of more than ten beds or changes
201 to its number of licensed rest home with nursing supervision beds and
202 chronic and convalescent nursing home beds. The commissioner may
203 so revise a facility's rate established for the fiscal year ending June 30,
204 1993, and thereafter for any bed increases, decreases or changes in
205 licensure effective after October 1, 1989. Effective July 1, 1991, in
206 facilities which have both a chronic and convalescent nursing home

207 and a rest home with nursing supervision, the rate for the rest home
208 with nursing supervision shall not exceed such facility's rate for its
209 chronic and convalescent nursing home. All such facilities for which
210 rates are determined under this subsection shall report on a fiscal year
211 basis ending on the thirtieth day of September. Such report shall be
212 submitted to the commissioner by the thirty-first day of December. The
213 commissioner may reduce the rate in effect for a facility which fails to
214 report on or before such date by an amount not to exceed ten per cent
215 of such rate. The commissioner shall annually, on or before the
216 fifteenth day of February, report the data contained in the reports of
217 such facilities to the joint standing committee of the General Assembly
218 having cognizance of matters relating to appropriations. For the cost
219 reporting year commencing October 1, 1985, and for subsequent cost
220 reporting years, facilities shall report the cost of using the services of
221 any nursing pool employee by separating said cost into two categories,
222 the portion of the cost equal to the salary of the employee for whom
223 the nursing pool employee is substituting shall be considered a
224 nursing cost and any cost in excess of such salary shall be further
225 divided so that seventy-five per cent of the excess cost shall be
226 considered an administrative or general cost and twenty-five per cent
227 of the excess cost shall be considered a nursing cost, provided if the
228 total nursing pool costs of a facility for any cost year are equal to or
229 exceed fifteen per cent of the total nursing expenditures of the facility
230 for such cost year, no portion of nursing pool costs in excess of fifteen
231 per cent shall be classified as administrative or general costs. The
232 commissioner, in determining such rates, shall also take into account
233 the classification of patients or boarders according to special care
234 requirements or classification of the facility according to such factors
235 as facilities and services and such other factors as he deems reasonable,
236 including anticipated fluctuations in the cost of providing such
237 services. The commissioner may establish a separate rate for a facility
238 or a portion of a facility for traumatic brain injury patients who require
239 extensive care but not acute general hospital care. Such separate rate
240 shall reflect the special care requirements of such patients. If changes

241 in federal or state laws, regulations or standards adopted subsequent
242 to June 30, 1985, result in increased costs or expenditures in an amount
243 exceeding one-half of one per cent of allowable costs for the most
244 recent cost reporting year, the commissioner shall adjust rates and
245 provide payment for any such increased reasonable costs or
246 expenditures within a reasonable period of time retroactive to the date
247 of enforcement. Nothing in this section shall be construed to require
248 the Department of Social Services to adjust rates and provide payment
249 for any increases in costs resulting from an inspection of a facility by
250 the Department of Public Health. Such assistance as the commissioner
251 requires from other state agencies or departments in determining rates
252 shall be made available to him at his request. Payment of the rates
253 established hereunder shall be conditioned on the establishment by
254 such facilities of admissions procedures which conform with this
255 section, section 19a-533 and all other applicable provisions of the law
256 and the provision of equality of treatment to all persons in such
257 facilities. The established rates shall be the maximum amount
258 chargeable by such facilities for care of such beneficiaries, and the
259 acceptance by or on behalf of any such facility of any additional
260 compensation for care of any such beneficiary from any other person
261 or source shall constitute the offense of aiding a beneficiary to obtain
262 aid to which he is not entitled and shall be punishable in the same
263 manner as is provided in subsection (b) of section 17b-97. For the fiscal
264 year ending June 30, 1992, rates for licensed residential care homes and
265 intermediate care facilities for [the mentally retarded] individuals with
266 intellectual disabilities may receive an increase not to exceed the most
267 recent annual increase in the Regional Data Resources Incorporated
268 McGraw-Hill Health Care Costs: Consumer Price Index (all urban)-All
269 Items. Rates for newly certified intermediate care facilities for [the
270 mentally retarded] individuals with intellectual disabilities shall not
271 exceed one hundred fifty per cent of the median rate of rates in effect
272 on January 31, 1991, for intermediate care facilities for [the mentally
273 retarded] individuals with intellectual disabilities certified prior to
274 February 1, 1991. Notwithstanding any provision of this section, the

275 Commissioner of Social Services may, within available appropriations,
276 provide an interim rate increase for a licensed chronic and
277 convalescent nursing home or a rest home with nursing supervision
278 for rate periods no earlier than April 1, 2004, only if the commissioner
279 determines that the increase is necessary to avoid the filing of a
280 petition for relief under Title 11 of the United States Code; imposition
281 of receivership pursuant to sections 19a-541 to 19a-549, inclusive; or
282 substantial deterioration of the facility's financial condition that may
283 be expected to adversely affect resident care and the continued
284 operation of the facility, and the commissioner determines that the
285 continued operation of the facility is in the best interest of the state.
286 The commissioner shall consider any requests for interim rate
287 increases on file with the department from March 30, 2004, and those
288 submitted subsequently for rate periods no earlier than April 1, 2004.
289 When reviewing a rate increase request the commissioner shall, at a
290 minimum, consider: (1) Existing chronic and convalescent nursing
291 home or rest home with nursing supervision utilization in the area and
292 projected bed need; (2) physical plant long-term viability and the
293 ability of the owner or purchaser to implement any necessary property
294 improvements; (3) licensure and certification compliance history; (4)
295 reasonableness of actual and projected expenses; and (5) the ability of
296 the facility to meet wage and benefit costs. No rate shall be increased
297 pursuant to this subsection in excess of one hundred fifteen per cent of
298 the median rate for the facility's peer grouping, established pursuant to
299 subdivision (2) of subsection (f) of this section, unless recommended
300 by the commissioner and approved by the Secretary of the Office of
301 Policy and Management after consultation with the commissioner.
302 Such median rates shall be published by the Department of Social
303 Services not later than April first of each year. In the event that a
304 facility granted an interim rate increase pursuant to this section is sold
305 or otherwise conveyed for value to an unrelated entity less than five
306 years after the effective date of such rate increase, the rate increase
307 shall be deemed rescinded and the department shall recover an
308 amount equal to the difference between payments made for all affected

309 rate periods and payments that would have been made if the interim
310 rate increase was not granted. The commissioner may seek recovery
311 from payments made to any facility with common ownership. With
312 the approval of the Secretary of the Office of Policy and Management,
313 the commissioner may waive recovery and rescission of the interim
314 rate for good cause shown that is not inconsistent with this section,
315 including, but not limited to, transfers to family members that were
316 made for no value. The commissioner shall provide written quarterly
317 reports to the joint standing committees of the General Assembly
318 having cognizance of matters relating to human services and
319 appropriations and the budgets of state agencies and to the select
320 committee of the General Assembly having cognizance of matters
321 relating to aging, that identify each facility requesting an interim rate
322 increase, the amount of the requested rate increase for each facility, the
323 action taken by the commissioner and the secretary pursuant to this
324 subsection, and estimates of the additional cost to the state for each
325 approved interim rate increase. Nothing in this subsection shall
326 prohibit the commissioner from increasing the rate of a licensed
327 chronic and convalescent nursing home or a rest home with nursing
328 supervision for allowable costs associated with facility capital
329 improvements or increasing the rate in case of a sale of a licensed
330 chronic and convalescent nursing home or a rest home with nursing
331 supervision, pursuant to subdivision (15) of subsection (f) of this
332 section, if receivership has been imposed on such home.

333 (b) The Commissioner of Social Services shall adopt regulations in
334 accordance with the provisions of chapter 54 to specify other allowable
335 services. For purposes of this section, other allowable services means
336 those services required by any medical assistance beneficiary residing
337 in such home or hospital which are not already covered in the rate set
338 by the commissioner in accordance with the provisions of subsection
339 (a) of this section.

340 (c) No facility subject to the requirements of this section shall accept
341 payment in excess of the rate set by the commissioner pursuant to

342 subsection (a) of this section for any medical assistance patient from
343 this or any other state. No facility shall accept payment in excess of the
344 reasonable and necessary costs of other allowable services as specified
345 by the commissioner pursuant to the regulations adopted under
346 subsection (b) of this section for any public assistance patient from this
347 or any other state. Notwithstanding the provisions of this subsection,
348 the commissioner may authorize a facility to accept payment in excess
349 of the rate paid for a medical assistance patient in this state for a
350 patient who receives medical assistance from another state.

351 (d) In any instance where the Commissioner of Social Services finds
352 that a facility subject to the requirements of this section is accepting
353 payment for a medical assistance beneficiary in violation of subsection
354 (c) of this section, the commissioner shall proceed to recover through
355 the rate set for the facility any sum in excess of the stipulated per diem
356 and other allowable costs, as provided for in regulations adopted
357 pursuant to subsections (a) and (b) of this section. The commissioner
358 shall make the recovery prospectively at the time of the next annual
359 rate redetermination.

360 (e) Except as provided in this subsection, the provisions of
361 subsections (c) and (d) of this section shall not apply to any facility
362 subject to the requirements of this section, which on October 1, 1981,
363 (1) was accepting payments from the commissioner in accordance with
364 the provisions of subsection (a) of this section, (2) was accepting
365 medical assistance payments from another state for at least twenty per
366 cent of its patients, and (3) had not notified the commissioner of any
367 intent to terminate its provider agreement, in accordance with section
368 17b-271, provided no patient residing in any such facility on May 22,
369 1984, shall be removed from such facility for purposes of meeting the
370 requirements of this subsection. If the commissioner finds that the
371 number of beds available to medical assistance patients from this state
372 in any such facility is less than fifteen per cent the provisions of
373 subsections (c) and (d) of this section shall apply to that number of
374 beds which is less than said percentage.

375 (f) For the fiscal year ending June 30, 1992, the rates paid by or for
376 persons aided or cared for by the state or any town in this state to
377 facilities for room, board and services specified in licensing regulations
378 issued by the licensing agency, except intermediate care facilities for
379 [the mentally retarded] individuals with intellectual disabilities and
380 residential care homes, shall be based on the cost year ending
381 September 30, 1989. For the fiscal years ending June 30, 1993, and June
382 30, 1994, such rates shall be based on the cost year ending September
383 30, 1990. Such rates shall be determined by the Commissioner of Social
384 Services in accordance with this section and the regulations of
385 Connecticut state agencies promulgated by the commissioner and in
386 effect on April 1, 1991, except that:

387 (1) Allowable costs shall be divided into the following five cost
388 components: Direct costs, which shall include salaries for nursing
389 personnel, related fringe benefits and nursing pool costs; indirect costs,
390 which shall include professional fees, dietary expenses, housekeeping
391 expenses, laundry expenses, supplies related to patient care, salaries
392 for indirect care personnel and related fringe benefits; fair rent, which
393 shall be defined in accordance with subsection (f) of section 17-311-52
394 of the regulations of Connecticut state agencies; capital-related costs,
395 which shall include property taxes, insurance expenses, equipment
396 leases and equipment depreciation; and administrative and general
397 costs, which shall include maintenance and operation of plant
398 expenses, salaries for administrative and maintenance personnel and
399 related fringe benefits. The commissioner may provide a rate
400 adjustment for nonemergency transportation services required by
401 nursing facility residents. Such adjustment shall be a fixed amount
402 determined annually by the commissioner based upon a review of
403 costs and other associated information. Allowable costs shall not
404 include costs for ancillary services payable under Part B of the
405 Medicare program.

406 (2) Two geographic peer groupings of facilities shall be established
407 for each level of care, as defined by the Department of Social Services

408 for the determination of rates, for the purpose of determining
409 allowable direct costs. One peer grouping shall be comprised of those
410 facilities located in Fairfield County. The other peer grouping shall be
411 comprised of facilities located in all other counties.

412 (3) For the fiscal year ending June 30, 1992, per diem maximum
413 allowable costs for each cost component shall be as follows: For direct
414 costs, the maximum shall be equal to one hundred forty per cent of the
415 median allowable cost of that peer grouping; for indirect costs, the
416 maximum shall be equal to one hundred thirty per cent of the state-
417 wide median allowable cost; for fair rent, the amount shall be
418 calculated utilizing the amount approved by the Office of Health Care
419 Access pursuant to section 19a-638, as amended by this act; for capital-
420 related costs, there shall be no maximum; and for administrative and
421 general costs, the maximum shall be equal to one hundred twenty-five
422 per cent of the state-wide median allowable cost. For the fiscal year
423 ending June 30, 1993, per diem maximum allowable costs for each cost
424 component shall be as follows: For direct costs, the maximum shall be
425 equal to one hundred forty per cent of the median allowable cost of
426 that peer grouping; for indirect costs, the maximum shall be equal to
427 one hundred twenty-five per cent of the state-wide median allowable
428 cost; for fair rent, the amount shall be calculated utilizing the amount
429 approved by the Office of Health Care Access pursuant to section 19a-
430 638, as amended by this act; for capital-related costs, there shall be no
431 maximum; and for administrative and general costs the maximum
432 shall be equal to one hundred fifteen per cent of the state-wide median
433 allowable cost. For the fiscal year ending June 30, 1994, per diem
434 maximum allowable costs for each cost component shall be as follows:
435 For direct costs, the maximum shall be equal to one hundred thirty-
436 five per cent of the median allowable cost of that peer grouping; for
437 indirect costs, the maximum shall be equal to one hundred twenty per
438 cent of the state-wide median allowable cost; for fair rent, the amount
439 shall be calculated utilizing the amount approved by the Office of
440 Health Care Access pursuant to section 19a-638, as amended by this

441 act; for capital-related costs, there shall be no maximum; and for
442 administrative and general costs the maximum shall be equal to one
443 hundred ten per cent of the state-wide median allowable cost. For the
444 fiscal year ending June 30, 1995, per diem maximum allowable costs
445 for each cost component shall be as follows: For direct costs, the
446 maximum shall be equal to one hundred thirty-five per cent of the
447 median allowable cost of that peer grouping; for indirect costs, the
448 maximum shall be equal to one hundred twenty per cent of the state-
449 wide median allowable cost; for fair rent, the amount shall be
450 calculated utilizing the amount approved by the Office of Health Care
451 Access pursuant to section 19a-638, as amended by this act; for capital-
452 related costs, there shall be no maximum; and for administrative and
453 general costs the maximum shall be equal to one hundred five per cent
454 of the state-wide median allowable cost. For the fiscal year ending June
455 30, 1996, and any succeeding fiscal year, except for the fiscal years
456 ending June 30, 2000, and June 30, 2001, for facilities with an interim
457 rate in one or both periods, per diem maximum allowable costs for
458 each cost component shall be as follows: For direct costs, the maximum
459 shall be equal to one hundred thirty-five per cent of the median
460 allowable cost of that peer grouping; for indirect costs, the maximum
461 shall be equal to one hundred fifteen per cent of the state-wide median
462 allowable cost; for fair rent, the amount shall be calculated utilizing the
463 amount approved pursuant to section 19a-638, as amended by this act;
464 for capital-related costs, there shall be no maximum; and for
465 administrative and general costs the maximum shall be equal to the
466 state-wide median allowable cost. For the fiscal years ending June 30,
467 2000, and June 30, 2001, for facilities with an interim rate in one or both
468 periods, per diem maximum allowable costs for each cost component
469 shall be as follows: For direct costs, the maximum shall be equal to one
470 hundred forty-five per cent of the median allowable cost of that peer
471 grouping; for indirect costs, the maximum shall be equal to one
472 hundred twenty-five per cent of the state-wide median allowable cost;
473 for fair rent, the amount shall be calculated utilizing the amount
474 approved pursuant to section 19a-638, as amended by this act; for

475 capital-related costs, there shall be no maximum; and for
476 administrative and general costs, the maximum shall be equal to the
477 state-wide median allowable cost and such medians shall be based
478 upon the same cost year used to set rates for facilities with prospective
479 rates. Costs in excess of the maximum amounts established under this
480 subsection shall not be recognized as allowable costs, except that the
481 Commissioner of Social Services (A) may allow costs in excess of
482 maximum amounts for any facility with patient days covered by
483 Medicare, including days requiring coinsurance, in excess of twelve
484 per cent of annual patient days which also has patient days covered by
485 Medicaid in excess of fifty per cent of annual patient days; (B) may
486 establish a pilot program whereby costs in excess of maximum
487 amounts shall be allowed for beds in a nursing home which has a
488 managed care program and is affiliated with a hospital licensed under
489 chapter 368v; and (C) may establish rates whereby allowable costs may
490 exceed such maximum amounts for beds approved on or after July 1,
491 1991, which are restricted to use by patients with acquired immune
492 deficiency syndrome or traumatic brain injury.

493 (4) For the fiscal year ending June 30, 1992, (A) no facility shall
494 receive a rate that is less than the rate it received for the rate year
495 ending June 30, 1991; (B) no facility whose rate, if determined pursuant
496 to this subsection, would exceed one hundred twenty per cent of the
497 state-wide median rate, as determined pursuant to this subsection,
498 shall receive a rate which is five and one-half per cent more than the
499 rate it received for the rate year ending June 30, 1991; and (C) no
500 facility whose rate, if determined pursuant to this subsection, would be
501 less than one hundred twenty per cent of the state-wide median rate,
502 as determined pursuant to this subsection, shall receive a rate which is
503 six and one-half per cent more than the rate it received for the rate year
504 ending June 30, 1991. For the fiscal year ending June 30, 1993, no
505 facility shall receive a rate that is less than the rate it received for the
506 rate year ending June 30, 1992, or six per cent more than the rate it
507 received for the rate year ending June 30, 1992. For the fiscal year

508 ending June 30, 1994, no facility shall receive a rate that is less than the
509 rate it received for the rate year ending June 30, 1993, or six per cent
510 more than the rate it received for the rate year ending June 30, 1993.
511 For the fiscal year ending June 30, 1995, no facility shall receive a rate
512 that is more than five per cent less than the rate it received for the rate
513 year ending June 30, 1994, or six per cent more than the rate it received
514 for the rate year ending June 30, 1994. For the fiscal years ending June
515 30, 1996, and June 30, 1997, no facility shall receive a rate that is more
516 than three per cent more than the rate it received for the prior rate
517 year. For the fiscal year ending June 30, 1998, a facility shall receive a
518 rate increase that is not more than two per cent more than the rate that
519 the facility received in the prior year. For the fiscal year ending June
520 30, 1999, a facility shall receive a rate increase that is not more than
521 three per cent more than the rate that the facility received in the prior
522 year and that is not less than one per cent more than the rate that the
523 facility received in the prior year, exclusive of rate increases associated
524 with a wage, benefit and staffing enhancement rate adjustment added
525 for the period from April 1, 1999, to June 30, 1999, inclusive. For the
526 fiscal year ending June 30, 2000, each facility, except a facility with an
527 interim rate or replaced interim rate for the fiscal year ending June 30,
528 1999, and a facility having a certificate of need or other agreement
529 specifying rate adjustments for the fiscal year ending June 30, 2000,
530 shall receive a rate increase equal to one per cent applied to the rate the
531 facility received for the fiscal year ending June 30, 1999, exclusive of
532 the facility's wage, benefit and staffing enhancement rate adjustment.
533 For the fiscal year ending June 30, 2000, no facility with an interim rate,
534 replaced interim rate or scheduled rate adjustment specified in a
535 certificate of need or other agreement for the fiscal year ending June
536 30, 2000, shall receive a rate increase that is more than one per cent
537 more than the rate the facility received in the fiscal year ending June
538 30, 1999. For the fiscal year ending June 30, 2001, each facility, except a
539 facility with an interim rate or replaced interim rate for the fiscal year
540 ending June 30, 2000, and a facility having a certificate of need or other
541 agreement specifying rate adjustments for the fiscal year ending June

542 30, 2001, shall receive a rate increase equal to two per cent applied to
543 the rate the facility received for the fiscal year ending June 30, 2000,
544 subject to verification of wage enhancement adjustments pursuant to
545 subdivision (14) of this subsection. For the fiscal year ending June 30,
546 2001, no facility with an interim rate, replaced interim rate or
547 scheduled rate adjustment specified in a certificate of need or other
548 agreement for the fiscal year ending June 30, 2001, shall receive a rate
549 increase that is more than two per cent more than the rate the facility
550 received for the fiscal year ending June 30, 2000. For the fiscal year
551 ending June 30, 2002, each facility shall receive a rate that is two and
552 one-half per cent more than the rate the facility received in the prior
553 fiscal year. For the fiscal year ending June 30, 2003, each facility shall
554 receive a rate that is two per cent more than the rate the facility
555 received in the prior fiscal year, except that such increase shall be
556 effective January 1, 2003, and such facility rate in effect for the fiscal
557 year ending June 30, 2002, shall be paid for services provided until
558 December 31, 2002, except any facility that would have been issued a
559 lower rate effective July 1, 2002, than for the fiscal year ending June 30,
560 2002, due to interim rate status or agreement with the department shall
561 be issued such lower rate effective July 1, 2002, and have such rate
562 increased two per cent effective June 1, 2003. For the fiscal year ending
563 June 30, 2004, rates in effect for the period ending June 30, 2003, shall
564 remain in effect, except any facility that would have been issued a
565 lower rate effective July 1, 2003, than for the fiscal year ending June 30,
566 2003, due to interim rate status or agreement with the department shall
567 be issued such lower rate effective July 1, 2003. For the fiscal year
568 ending June 30, 2005, rates in effect for the period ending June 30, 2004,
569 shall remain in effect until December 31, 2004, except any facility that
570 would have been issued a lower rate effective July 1, 2004, than for the
571 fiscal year ending June 30, 2004, due to interim rate status or
572 agreement with the department shall be issued such lower rate
573 effective July 1, 2004. Effective January 1, 2005, each facility shall
574 receive a rate that is one per cent greater than the rate in effect
575 December 31, 2004. Effective upon receipt of all the necessary federal

576 approvals to secure federal financial participation matching funds
577 associated with the rate increase provided in this subdivision, but in
578 no event earlier than July 1, 2005, and provided the user fee imposed
579 under section 17b-320 is required to be collected, for the fiscal year
580 ending June 30, 2006, the department shall compute the rate for each
581 facility based upon its 2003 cost report filing or a subsequent cost year
582 filing for facilities having an interim rate for the period ending June 30,
583 2005, as provided under section 17-311-55 of the regulations of
584 Connecticut state agencies. For each facility not having an interim rate
585 for the period ending June 30, 2005, the rate for the period ending June
586 30, 2006, shall be determined beginning with the higher of the
587 computed rate based upon its 2003 cost report filing or the rate in
588 effect for the period ending June 30, 2005. Such rate shall then be
589 increased by eleven dollars and eighty cents per day except that in no
590 event shall the rate for the period ending June 30, 2006, be thirty-two
591 dollars more than the rate in effect for the period ending June 30, 2005,
592 and for any facility with a rate below one hundred ninety-five dollars
593 per day for the period ending June 30, 2005, such rate for the period
594 ending June 30, 2006, shall not be greater than two hundred seventeen
595 dollars and forty-three cents per day and for any facility with a rate
596 equal to or greater than one hundred ninety-five dollars per day for
597 the period ending June 30, 2005, such rate for the period ending June
598 30, 2006, shall not exceed the rate in effect for the period ending June
599 30, 2005, increased by eleven and one-half per cent. For each facility
600 with an interim rate for the period ending June 30, 2005, the interim
601 replacement rate for the period ending June 30, 2006, shall not exceed
602 the rate in effect for the period ending June 30, 2005, increased by
603 eleven dollars and eighty cents per day plus the per day cost of the
604 user fee payments made pursuant to section 17b-320 divided by
605 annual resident service days, except for any facility with an interim
606 rate below one hundred ninety-five dollars per day for the period
607 ending June 30, 2005, the interim replacement rate for the period
608 ending June 30, 2006, shall not be greater than two hundred seventeen
609 dollars and forty-three cents per day and for any facility with an

610 interim rate equal to or greater than one hundred ninety-five dollars
611 per day for the period ending June 30, 2005, the interim replacement
612 rate for the period ending June 30, 2006, shall not exceed the rate in
613 effect for the period ending June 30, 2005, increased by eleven and one-
614 half per cent. Such July 1, 2005, rate adjustments shall remain in effect
615 unless (i) the federal financial participation matching funds associated
616 with the rate increase are no longer available; or (ii) the user fee
617 created pursuant to section 17b-320 is not in effect. For the fiscal year
618 ending June 30, 2007, each facility shall receive a rate that is three per
619 cent greater than the rate in effect for the period ending June 30, 2006,
620 except any facility that would have been issued a lower rate effective
621 July 1, 2006, than for the rate period ending June 30, 2006, due to
622 interim rate status or agreement with the department, shall be issued
623 such lower rate effective July 1, 2006. For the fiscal year ending June
624 30, 2008, each facility shall receive a rate that is two and nine-tenths
625 per cent greater than the rate in effect for the period ending June 30,
626 2007, except any facility that would have been issued a lower rate
627 effective July 1, 2007, than for the rate period ending June 30, 2007, due
628 to interim rate status or agreement with the department, shall be
629 issued such lower rate effective July 1, 2007. For the fiscal year ending
630 June 30, 2009, rates in effect for the period ending June 30, 2008, shall
631 remain in effect until June 30, 2009, except any facility that would have
632 been issued a lower rate for the fiscal year ending June 30, 2009, due to
633 interim rate status or agreement with the department shall be issued
634 such lower rate. For the fiscal years ending June 30, 2010, and June 30,
635 2011, rates in effect for the period ending June 30, 2009, shall remain in
636 effect until June 30, 2011, except any facility that would have been
637 issued a lower rate for the fiscal year ending June 30, 2010, or the fiscal
638 year ending June 30, 2011, due to interim rate status or agreement with
639 the department, shall be issued such lower rate. For the fiscal years
640 ending June 30, 2012, and June 30, 2013, rates in effect for the period
641 ending June 30, 2011, shall remain in effect until June 30, 2013, except
642 any facility that would have been issued a lower rate for the fiscal year
643 ending June 30, 2012, or the fiscal year ending June 30, 2013, due to

644 interim rate status or agreement with the department, shall be issued
645 such lower rate. The Commissioner of Social Services shall add fair
646 rent increases to any other rate increases established pursuant to this
647 subdivision for a facility which has undergone a material change in
648 circumstances related to fair rent, except for the fiscal years ending
649 June 30, 2010, June 30, 2011, and June 30, 2012, such fair rent increases
650 shall only be provided to facilities with an approved certificate of need
651 pursuant to section 17b-352, as amended by this act, 17b-353, 17b-354
652 or 17b-355. For the fiscal year ending June 30, 2013, the commissioner
653 may, within available appropriations, provide pro rata fair rent
654 increases for facilities which have undergone a material change in
655 circumstances related to fair rent additions placed in service in cost
656 report years ending September 30, 2008, to September 30, 2011,
657 inclusive, and not otherwise included in rates issued. For the fiscal
658 year ending June 30, 2013, the commissioner shall add fair rent
659 increases associated with an approved certificate of need pursuant to
660 section 17b-352, as amended by this act, 17b-353, 17b-354 or 17b-355.
661 Interim rates may take into account reasonable costs incurred by a
662 facility, including wages and benefits. Notwithstanding the provisions
663 of this section, the Commissioner of Social Services may, within
664 available appropriations, increase rates issued to licensed chronic and
665 convalescent nursing homes and licensed rest homes with nursing
666 supervision.

667 (5) For the purpose of determining allowable fair rent, a facility with
668 allowable fair rent less than the twenty-fifth percentile of the state-
669 wide allowable fair rent shall be reimbursed as having allowable fair
670 rent equal to the twenty-fifth percentile of the state-wide allowable fair
671 rent, provided for the fiscal years ending June 30, 1996, and June 30,
672 1997, the reimbursement may not exceed the twenty-fifth percentile of
673 the state-wide allowable fair rent for the fiscal year ending June 30,
674 1995. On and after July 1, 1998, the Commissioner of Social Services
675 may allow minimum fair rent as the basis upon which reimbursement
676 associated with improvements to real property is added. Beginning

677 with the fiscal year ending June 30, 1996, any facility with a rate of
678 return on real property other than land in excess of eleven per cent
679 shall have such allowance revised to eleven per cent. Any facility or its
680 related realty affiliate which finances or refinances debt through bonds
681 issued by the State of Connecticut Health and Education Facilities
682 Authority shall report the terms and conditions of such financing or
683 refinancing to the Commissioner of Social Services within thirty days
684 of completing such financing or refinancing. The Commissioner of
685 Social Services may revise the facility's fair rent component of its rate
686 to reflect any financial benefit the facility or its related realty affiliate
687 received as a result of such financing or refinancing, including but not
688 limited to, reductions in the amount of debt service payments or
689 period of debt repayment. The commissioner shall allow actual debt
690 service costs for bonds issued by the State of Connecticut Health and
691 Educational Facilities Authority if such costs do not exceed property
692 costs allowed pursuant to subsection (f) of section 17-311-52 of the
693 regulations of Connecticut state agencies, provided the commissioner
694 may allow higher debt service costs for such bonds for good cause. For
695 facilities which first open on or after October 1, 1992, the commissioner
696 shall determine allowable fair rent for real property other than land
697 based on the rate of return for the cost year in which such bonds were
698 issued. The financial benefit resulting from a facility financing or
699 refinancing debt through such bonds shall be shared between the state
700 and the facility to an extent determined by the commissioner on a case-
701 by-case basis and shall be reflected in an adjustment to the facility's
702 allowable fair rent.

703 (6) A facility shall receive cost efficiency adjustments for indirect
704 costs and for administrative and general costs if such costs are below
705 the state-wide median costs. The cost efficiency adjustments shall
706 equal twenty-five per cent of the difference between allowable
707 reported costs and the applicable median allowable cost established
708 pursuant to this subdivision.

709 (7) For the fiscal year ending June 30, 1992, allowable operating

710 costs, excluding fair rent, shall be inflated using the Regional Data
711 Resources Incorporated McGraw-Hill Health Care Costs: Consumer
712 Price Index (all urban)-All Items minus one and one-half per cent. For
713 the fiscal year ending June 30, 1993, allowable operating costs,
714 excluding fair rent, shall be inflated using the Regional Data Resources
715 Incorporated McGraw-Hill Health Care Costs: Consumer Price Index
716 (all urban)-All Items minus one and three-quarters per cent. For the
717 fiscal years ending June 30, 1994, and June 30, 1995, allowable
718 operating costs, excluding fair rent, shall be inflated using the Regional
719 Data Resources Incorporated McGraw-Hill Health Care Costs:
720 Consumer Price Index (all urban)-All Items minus two per cent. For
721 the fiscal year ending June 30, 1996, allowable operating costs,
722 excluding fair rent, shall be inflated using the Regional Data Resources
723 Incorporated McGraw-Hill Health Care Costs: Consumer Price Index
724 (all urban)-All Items minus two and one-half per cent. For the fiscal
725 year ending June 30, 1997, allowable operating costs, excluding fair
726 rent, shall be inflated using the Regional Data Resources Incorporated
727 McGraw-Hill Health Care Costs: Consumer Price Index (all urban)-All
728 Items minus three and one-half per cent. For the fiscal year ending
729 June 30, 1992, and any succeeding fiscal year, allowable fair rent shall
730 be those reported in the annual report of long-term care facilities for
731 the cost year ending the immediately preceding September thirtieth.
732 The inflation index to be used pursuant to this subsection shall be
733 computed to reflect inflation between the midpoint of the cost year
734 through the midpoint of the rate year. The Department of Social
735 Services shall study methods of reimbursement for fair rent and shall
736 report its findings and recommendations to the joint standing
737 committee of the General Assembly having cognizance of matters
738 relating to human services on or before January 15, 1993.

739 (8) On and after July 1, 1994, costs shall be rebased no more
740 frequently than every two years and no less frequently than every four
741 years, as determined by the commissioner. The commissioner shall
742 determine whether and to what extent a change in ownership of a

743 facility shall occasion the rebasing of the facility's costs.

744 (9) The method of establishing rates for new facilities shall be
745 determined by the commissioner in accordance with the provisions of
746 this subsection.

747 (10) Rates determined under this section shall comply with federal
748 laws and regulations.

749 (11) Notwithstanding the provisions of this subsection, interim rates
750 issued for facilities on and after July 1, 1991, shall be subject to
751 applicable fiscal year cost component limitations established pursuant
752 to subdivision (3) of this subsection.

753 (12) A chronic and convalescent nursing home having an ownership
754 affiliation with and operated at the same location as a chronic disease
755 hospital may request that the commissioner approve an exception to
756 applicable rate-setting provisions for chronic and convalescent nursing
757 homes and establish a rate for the fiscal years ending June 30, 1992,
758 and June 30, 1993, in accordance with regulations in effect June 30,
759 1991. Any such rate shall not exceed one hundred sixty-five per cent of
760 the median rate established for chronic and convalescent nursing
761 homes established under this section for the applicable fiscal year.

762 (13) For the fiscal year ending June 30, 1994, and any succeeding
763 fiscal year, for purposes of computing minimum allowable patient
764 days, utilization of a facility's certified beds shall be determined at a
765 minimum of ninety-five per cent of capacity, except for new facilities
766 and facilities which are certified for additional beds which may be
767 permitted a lower occupancy rate for the first three months of
768 operation after the effective date of licensure.

769 (14) The Commissioner of Social Services shall adjust facility rates
770 from April 1, 1999, to June 30, 1999, inclusive, by a per diem amount
771 representing each facility's allocation of funds appropriated for the
772 purpose of wage, benefit and staffing enhancement. A facility's per

773 diem allocation of such funding shall be computed as follows: (A) The
774 facility's direct and indirect component salary, wage, nursing pool and
775 allocated fringe benefit costs as filed for the 1998 cost report period
776 deemed allowable in accordance with this section and applicable
777 regulations without application of cost component maximums
778 specified in subdivision (3) of this subsection shall be totalled; (B) such
779 total shall be multiplied by the facility's Medicaid utilization based on
780 the 1998 cost report; (C) the resulting amount for the facility shall be
781 divided by the sum of the calculations specified in subparagraphs (A)
782 and (B) of this subdivision for all facilities to determine the facility's
783 percentage share of appropriated wage, benefit and staffing
784 enhancement funding; (D) the facility's percentage share shall be
785 multiplied by the amount of appropriated wage, benefit and staffing
786 enhancement funding to determine the facility's allocated amount; and
787 (E) such allocated amount shall be divided by the number of days of
788 care paid for by Medicaid on an annual basis including days for
789 reserved beds specified in the 1998 cost report to determine the per
790 diem wage and benefit rate adjustment amount. The commissioner
791 may adjust a facility's reported 1998 cost and utilization data for the
792 purposes of determining a facility's share of wage, benefit and staffing
793 enhancement funding when reported 1998 information is not
794 substantially representative of estimated cost and utilization data for
795 the fiscal year ending June 30, 2000, due to special circumstances
796 during the 1998 cost report period including change of ownership with
797 a part year cost filing or reductions in facility capacity due to facility
798 renovation projects. Upon completion of the calculation of the
799 allocation of wage, benefit and staffing enhancement funding, the
800 commissioner shall not adjust the allocations due to revisions
801 submitted to previously filed 1998 annual cost reports. In the event
802 that a facility's rate for the fiscal year ending June 30, 1999, is an
803 interim rate or the rate includes an increase adjustment due to a rate
804 request to the commissioner or other reasons, the commissioner may
805 reduce or withhold the per diem wage, benefit and staffing
806 enhancement allocation computed for the facility. Any enhancement

807 allocations not applied to facility rates shall not be reallocated to other
808 facilities and such unallocated amounts shall be available for the costs
809 associated with interim rates and other Medicaid expenditures. The
810 wage, benefit and staffing enhancement per diem adjustment for the
811 period from April 1, 1999, to June 30, 1999, inclusive, shall also be
812 applied to rates for the fiscal years ending June 30, 2000, and June 30,
813 2001, except that the commissioner may increase or decrease the
814 adjustment to account for changes in facility capacity or operations.
815 Any facility accepting a rate adjustment for wage, benefit and staffing
816 enhancements shall apply payments made as a result of such rate
817 adjustment for increased allowable employee wage rates and benefits
818 and additional direct and indirect component staffing. Adjustment
819 funding shall not be applied to wage and salary increases provided to
820 the administrator, assistant administrator, owners or related party
821 employees. Enhancement payments may be applied to increases in
822 costs associated with staffing purchased from staffing agencies
823 provided such costs are deemed necessary and reasonable by the
824 commissioner. The commissioner shall compare expenditures for
825 wages, benefits and staffing for the 1998 cost report period to such
826 expenditures in the 1999, 2000 and 2001 cost report periods to verify
827 whether a facility has applied additional payments to specified
828 enhancements. In the event that the commissioner determines that a
829 facility did not apply additional payments to specified enhancements,
830 the commissioner shall recover such amounts from the facility through
831 rate adjustments or other means. The commissioner may require
832 facilities to file cost reporting forms, in addition to the annual cost
833 report, as may be necessary, to verify the appropriate application of
834 wage, benefit and staffing enhancement rate adjustment payments. For
835 the purposes of this subdivision, "Medicaid utilization" means the
836 number of days of care paid for by Medicaid on an annual basis
837 including days for reserved beds as a percentage of total resident days.

838 (15) The interim rate established to become effective upon sale of
839 any licensed chronic and convalescent home or rest home with nursing

840 supervision for which a receivership has been imposed pursuant to
841 sections 19a-541 to 19a-549, inclusive, shall not exceed the rate in effect
842 for the facility at the time of the imposition of the receivership, subject
843 to any annual increases permitted by this section; provided the
844 Commissioner of Social Services may, in the commissioner's discretion,
845 and after consultation with the receiver, establish an increased rate for
846 the facility if the commissioner with approval of the Secretary of the
847 Office of Policy and Management determines that such higher rate is
848 needed to keep the facility open and to ensure the health, safety and
849 welfare of the residents at such facility.

850 (g) For the fiscal year ending June 30, 1993, any intermediate care
851 facility for [the mentally retarded] individuals with intellectual
852 disabilities with an operating cost component of its rate in excess of
853 one hundred forty per cent of the median of operating cost
854 components of rates in effect January 1, 1992, shall not receive an
855 operating cost component increase. For the fiscal year ending June 30,
856 1993, any intermediate care facility for [the mentally retarded]
857 individuals with intellectual disabilities with an operating cost
858 component of its rate that is less than one hundred forty per cent of the
859 median of operating cost components of rates in effect January 1, 1992,
860 shall have an allowance for real wage growth equal to thirty per cent
861 of the increase determined in accordance with subsection (q) of section
862 17-311-52 of the regulations of Connecticut state agencies, provided
863 such operating cost component shall not exceed one hundred forty per
864 cent of the median of operating cost components in effect January 1,
865 1992. Any facility with real property other than land placed in service
866 prior to October 1, 1991, shall, for the fiscal year ending June 30, 1995,
867 receive a rate of return on real property equal to the average of the
868 rates of return applied to real property other than land placed in
869 service for the five years preceding October 1, 1993. For the fiscal year
870 ending June 30, 1996, and any succeeding fiscal year, the rate of return
871 on real property for property items shall be revised every five years.
872 The commissioner shall, upon submission of a request, allow actual

873 debt service, comprised of principal and interest, in excess of property
874 costs allowed pursuant to section 17-311-52 of the regulations of
875 Connecticut state agencies, provided such debt service terms and
876 amounts are reasonable in relation to the useful life and the base value
877 of the property. For the fiscal year ending June 30, 1995, and any
878 succeeding fiscal year, the inflation adjustment made in accordance
879 with subsection (p) of section 17-311-52 of the regulations of
880 Connecticut state agencies shall not be applied to real property costs.
881 For the fiscal year ending June 30, 1996, and any succeeding fiscal year,
882 the allowance for real wage growth, as determined in accordance with
883 subsection (q) of section 17-311-52 of the regulations of Connecticut
884 state agencies, shall not be applied. For the fiscal year ending June 30,
885 1996, and any succeeding fiscal year, no rate shall exceed three
886 hundred seventy-five dollars per day unless the commissioner, in
887 consultation with the Commissioner of Developmental Services,
888 determines after a review of program and management costs, that a
889 rate in excess of this amount is necessary for care and treatment of
890 facility residents. For the fiscal year ending June 30, 2002, rate period,
891 the Commissioner of Social Services shall increase the inflation
892 adjustment for rates made in accordance with subsection (p) of section
893 17-311-52 of the regulations of Connecticut state agencies to update
894 allowable fiscal year 2000 costs to include a three and one-half per cent
895 inflation factor. For the fiscal year ending June 30, 2003, rate period, the
896 commissioner shall increase the inflation adjustment for rates made in
897 accordance with subsection (p) of section 17-311-52 of the regulations
898 of Connecticut state agencies to update allowable fiscal year 2001 costs
899 to include a one and one-half per cent inflation factor, except that such
900 increase shall be effective November 1, 2002, and such facility rate in
901 effect for the fiscal year ending June 30, 2002, shall be paid for services
902 provided until October 31, 2002, except any facility that would have
903 been issued a lower rate effective July 1, 2002, than for the fiscal year
904 ending June 30, 2002, due to interim rate status or agreement with the
905 department shall be issued such lower rate effective July 1, 2002, and
906 have such rate updated effective November 1, 2002, in accordance with

907 applicable statutes and regulations. For the fiscal year ending June 30,
908 2004, rates in effect for the period ending June 30, 2003, shall remain in
909 effect, except any facility that would have been issued a lower rate
910 effective July 1, 2003, than for the fiscal year ending June 30, 2003, due
911 to interim rate status or agreement with the department shall be issued
912 such lower rate effective July 1, 2003. For the fiscal year ending June
913 30, 2005, rates in effect for the period ending June 30, 2004, shall
914 remain in effect until September 30, 2004. Effective October 1, 2004,
915 each facility shall receive a rate that is five per cent greater than the
916 rate in effect September 30, 2004. Effective upon receipt of all the
917 necessary federal approvals to secure federal financial participation
918 matching funds associated with the rate increase provided in
919 subdivision (4) of subsection (f) of this section, but in no event earlier
920 than October 1, 2005, and provided the user fee imposed under section
921 17b-320 is required to be collected, each facility shall receive a rate that
922 is four per cent more than the rate the facility received in the prior
923 fiscal year, except any facility that would have been issued a lower rate
924 effective October 1, 2005, than for the fiscal year ending June 30, 2005,
925 due to interim rate status or agreement with the department, shall be
926 issued such lower rate effective October 1, 2005. Such rate increase
927 shall remain in effect unless: (1) The federal financial participation
928 matching funds associated with the rate increase are no longer
929 available; or (2) the user fee created pursuant to section 17b-320 is not
930 in effect. For the fiscal year ending June 30, 2007, rates in effect for the
931 period ending June 30, 2006, shall remain in effect until September 30,
932 2006, except any facility that would have been issued a lower rate
933 effective July 1, 2006, than for the fiscal year ending June 30, 2006, due
934 to interim rate status or agreement with the department, shall be
935 issued such lower rate effective July 1, 2006. Effective October 1, 2006,
936 no facility shall receive a rate that is more than three per cent greater
937 than the rate in effect for the facility on September 30, 2006, except any
938 facility that would have been issued a lower rate effective October 1,
939 2006, due to interim rate status or agreement with the department,
940 shall be issued such lower rate effective October 1, 2006. For the fiscal

941 year ending June 30, 2008, each facility shall receive a rate that is two
942 and nine-tenths per cent greater than the rate in effect for the period
943 ending June 30, 2007, except any facility that would have been issued a
944 lower rate effective July 1, 2007, than for the rate period ending June
945 30, 2007, due to interim rate status, or agreement with the department,
946 shall be issued such lower rate effective July 1, 2007. For the fiscal year
947 ending June 30, 2009, rates in effect for the period ending June 30, 2008,
948 shall remain in effect until June 30, 2009, except any facility that would
949 have been issued a lower rate for the fiscal year ending June 30, 2009,
950 due to interim rate status or agreement with the department, shall be
951 issued such lower rate. For the fiscal years ending June 30, 2010, and
952 June 30, 2011, rates in effect for the period ending June 30, 2009, shall
953 remain in effect until June 30, 2011, except any facility that would have
954 been issued a lower rate for the fiscal year ending June 30, 2010, or the
955 fiscal year ending June 30, 2011, due to interim rate status or
956 agreement with the department, shall be issued such lower rate. For
957 the fiscal year ending June 30, 2012, rates in effect for the period
958 ending June 30, 2011, shall remain in effect until June 30, 2012, except
959 any facility that would have been issued a lower rate for the fiscal year
960 ending June 30, 2012, due to interim rate status or agreement with the
961 department, shall be issued such lower rate. For the fiscal year ending
962 June 30, 2013, any facility that has a significant decrease in land and
963 building costs shall receive a reduced rate to reflect such decrease in
964 land and building costs. For the fiscal years ending June 30, 2012, and
965 June 30, 2013, the Commissioner of Social Services may provide fair
966 rent increases to any facility that has undergone a material change in
967 circumstances related to fair rent and has an approved certificate of
968 need pursuant to section 17b-352, as amended by this act, 17b-353, 17b-
969 354 or 17b-355. Notwithstanding the provisions of this section, the
970 Commissioner of Social Services may, within available appropriations,
971 increase rates issued to intermediate care facilities for [the mentally
972 retarded] individuals with intellectual disabilities.

973 (h) (1) For the fiscal year ending June 30, 1993, any residential care

974 home with an operating cost component of its rate in excess of one
975 hundred thirty per cent of the median of operating cost components of
976 rates in effect January 1, 1992, shall not receive an operating cost
977 component increase. For the fiscal year ending June 30, 1993, any
978 residential care home with an operating cost component of its rate that
979 is less than one hundred thirty per cent of the median of operating cost
980 components of rates in effect January 1, 1992, shall have an allowance
981 for real wage growth equal to sixty-five per cent of the increase
982 determined in accordance with subsection (q) of section 17-311-52 of
983 the regulations of Connecticut state agencies, provided such operating
984 cost component shall not exceed one hundred thirty per cent of the
985 median of operating cost components in effect January 1, 1992.
986 Beginning with the fiscal year ending June 30, 1993, for the purpose of
987 determining allowable fair rent, a residential care home with allowable
988 fair rent less than the twenty-fifth percentile of the state-wide
989 allowable fair rent shall be reimbursed as having allowable fair rent
990 equal to the twenty-fifth percentile of the state-wide allowable fair
991 rent. Beginning with the fiscal year ending June 30, 1997, a residential
992 care home with allowable fair rent less than three dollars and ten cents
993 per day shall be reimbursed as having allowable fair rent equal to
994 three dollars and ten cents per day. Property additions placed in
995 service during the cost year ending September 30, 1996, or any
996 succeeding cost year shall receive a fair rent allowance for such
997 additions as an addition to three dollars and ten cents per day if the
998 fair rent for the facility for property placed in service prior to
999 September 30, 1995, is less than or equal to three dollars and ten cents
1000 per day. For the fiscal year ending June 30, 1996, and any succeeding
1001 fiscal year, the allowance for real wage growth, as determined in
1002 accordance with subsection (q) of section 17-311-52 of the regulations
1003 of Connecticut state agencies, shall not be applied. For the fiscal year
1004 ending June 30, 1996, and any succeeding fiscal year, the inflation
1005 adjustment made in accordance with subsection (p) of section 17-311-
1006 52 of the regulations of Connecticut state agencies shall not be applied
1007 to real property costs. Beginning with the fiscal year ending June 30,

1008 1997, minimum allowable patient days for rate computation purposes
1009 for a residential care home with twenty-five beds or less shall be
1010 eighty-five per cent of licensed capacity. Beginning with the fiscal year
1011 ending June 30, 2002, for the purposes of determining the allowable
1012 salary of an administrator of a residential care home with sixty beds or
1013 less the department shall revise the allowable base salary to thirty-
1014 seven thousand dollars to be annually inflated thereafter in accordance
1015 with section 17-311-52 of the regulations of Connecticut state agencies.
1016 The rates for the fiscal year ending June 30, 2002, shall be based upon
1017 the increased allowable salary of an administrator, regardless of
1018 whether such amount was expended in the 2000 cost report period
1019 upon which the rates are based. Beginning with the fiscal year ending
1020 June 30, 2000, and until the fiscal year ending June 30, 2009, inclusive,
1021 the inflation adjustment for rates made in accordance with subsection
1022 (p) of section 17-311-52 of the regulations of Connecticut state agencies
1023 shall be increased by two per cent, and beginning with the fiscal year
1024 ending June 30, 2002, the inflation adjustment for rates made in
1025 accordance with subsection (c) of said section shall be increased by one
1026 per cent. Beginning with the fiscal year ending June 30, 1999, for the
1027 purpose of determining the allowable salary of a related party, the
1028 department shall revise the maximum salary to twenty-seven
1029 thousand eight hundred fifty-six dollars to be annually inflated
1030 thereafter in accordance with section 17-311-52 of the regulations of
1031 Connecticut state agencies and beginning with the fiscal year ending
1032 June 30, 2001, such allowable salary shall be computed on an hourly
1033 basis and the maximum number of hours allowed for a related party
1034 other than the proprietor shall be increased from forty hours to forty-
1035 eight hours per work week. For the fiscal year ending June 30, 2005,
1036 each facility shall receive a rate that is two and one-quarter per cent
1037 more than the rate the facility received in the prior fiscal year, except
1038 any facility that would have been issued a lower rate effective July 1,
1039 2004, than for the fiscal year ending June 30, 2004, due to interim rate
1040 status or agreement with the department shall be issued such lower
1041 rate effective July 1, 2004. Effective upon receipt of all the necessary

1042 federal approvals to secure federal financial participation matching
1043 funds associated with the rate increase provided in subdivision (4) of
1044 subsection (f) of this section, but in no event earlier than October 1,
1045 2005, and provided the user fee imposed under section 17b-320 is
1046 required to be collected, each facility shall receive a rate that is
1047 determined in accordance with applicable law and subject to
1048 appropriations, except any facility that would have been issued a
1049 lower rate effective October 1, 2005, than for the fiscal year ending June
1050 30, 2005, due to interim rate status or agreement with the department,
1051 shall be issued such lower rate effective October 1, 2005. Such rate
1052 increase shall remain in effect unless: (A) The federal financial
1053 participation matching funds associated with the rate increase are no
1054 longer available; or (B) the user fee created pursuant to section 17b-320
1055 is not in effect. For the fiscal year ending June 30, 2007, rates in effect
1056 for the period ending June 30, 2006, shall remain in effect until
1057 September 30, 2006, except any facility that would have been issued a
1058 lower rate effective July 1, 2006, than for the fiscal year ending June 30,
1059 2006, due to interim rate status or agreement with the department,
1060 shall be issued such lower rate effective July 1, 2006. Effective October
1061 1, 2006, no facility shall receive a rate that is more than four per cent
1062 greater than the rate in effect for the facility on September 30, 2006,
1063 except for any facility that would have been issued a lower rate
1064 effective October 1, 2006, due to interim rate status or agreement with
1065 the department, shall be issued such lower rate effective October 1,
1066 2006. For the fiscal years ending June 30, 2010, and June 30, 2011, rates
1067 in effect for the period ending June 30, 2009, shall remain in effect until
1068 June 30, 2011, except any facility that would have been issued a lower
1069 rate for the fiscal year ending June 30, 2010, or the fiscal year ending
1070 June 30, 2011, due to interim rate status or agreement with the
1071 department, shall be issued such lower rate, except (i) any facility that
1072 would have been issued a lower rate for the fiscal year ending June 30,
1073 2010, or the fiscal year ending June 30, 2011, due to interim rate status
1074 or agreement with the Commissioner of Social Services shall be issued
1075 such lower rate; and (ii) the commissioner may increase a facility's rate

1076 for reasonable costs associated with such facility's compliance with the
1077 provisions of section 19a-495a concerning the administration of
1078 medication by unlicensed personnel. For the fiscal year ending June 30,
1079 2012, rates in effect for the period ending June 30, 2011, shall remain in
1080 effect until June 30, 2012, except that (I) any facility that would have
1081 been issued a lower rate for the fiscal year ending June 30, 2012, due to
1082 interim rate status or agreement with the Commissioner of Social
1083 Services shall be issued such lower rate; and (II) the commissioner may
1084 increase a facility's rate for reasonable costs associated with such
1085 facility's compliance with the provisions of section 19a-495a
1086 concerning the administration of medication by unlicensed personnel.
1087 For the fiscal year ending June 30, 2013, the Commissioner of Social
1088 Services may, within available appropriations, provide a rate increase
1089 to a residential care home. Any facility that would have been issued a
1090 lower rate for the fiscal year ending June 30, 2013, due to interim rate
1091 status or agreement with the Commissioner of Social Services shall be
1092 issued such lower rate. For the fiscal years ending June 30, 2012, and
1093 June 30, 2013, the Commissioner of Social Services may provide fair
1094 rent increases to any facility that has undergone a material change in
1095 circumstances related to fair rent and has an approved certificate of
1096 need pursuant to section 17b-352, as amended by this act, 17b-353, 17b-
1097 354 or 17b-355.

1098 (2) The commissioner shall, upon determining that a loan to be
1099 issued to a residential care home by the Connecticut Housing Finance
1100 Authority is reasonable in relation to the useful life and property cost
1101 allowance pursuant to section 17-311-52 of the regulations of
1102 Connecticut state agencies, allow actual debt service, comprised of
1103 principal, interest and a repair and replacement reserve on the loan, in
1104 lieu of allowed property costs whether actual debt service is higher or
1105 lower than such allowed property costs.

1106 (i) Notwithstanding the provisions of this section, the
1107 Commissioner of Social Services shall establish a fee schedule for
1108 payments to be made to chronic disease hospitals associated with

1109 chronic and convalescent nursing homes to be effective on and after
1110 July 1, 1995. The fee schedule may be adjusted annually beginning July
1111 1, 1997, to reflect necessary increases in the cost of services.

1112 Sec. 10. Section 17b-340a of the general statutes is repealed and the
1113 following is substituted in lieu thereof (*Effective October 1, 2013*):

1114 (a) For purposes of this section and section 17b-340b, as amended by
1115 this act:

1116 (1) "Commissioner" means the Commissioner of Revenue Services;

1117 (2) "Department" means the Department of Revenue Services;

1118 (3) "Intermediate care facility for [the mentally retarded] individuals
1119 with intellectual disabilities" or "intermediate care facility" means a
1120 residential facility for [the mentally retarded] persons with intellectual
1121 disability which is certified to meet the requirements of 42 CFR 442,
1122 Subpart C and, in the case of a private facility, licensed pursuant to
1123 section 17a-227;

1124 (4) "Resident day" means a day of intermediate care facility
1125 residential care provided to an individual and includes the day a
1126 resident is admitted and any day for which the intermediate care
1127 facility is eligible for payment for reserving a resident's bed due to
1128 hospitalization or temporary leave and for the date of death. For
1129 purposes of this subdivision, a day of care shall be the period of time
1130 between the census-taking hour in a facility on two successive calendar
1131 days. "Resident day" does not include the day a resident is discharged;

1132 (5) "Intermediate care facility for [the mentally retarded] individuals
1133 with intellectual disabilities net revenue" means amounts billed by an
1134 intermediate care facility for all services provided, including room,
1135 board and ancillary services, minus (A) contractual allowances, (B)
1136 payer discounts, (C) charity care, and (D) bad debts; and

1137 (6) "Contractual allowances" means the amount of discounts

1138 allowed by an intermediate care facility to certain payers from
1139 amounts billed for room, board and ancillary services.

1140 (b) (1) For each calendar quarter commencing on or after July 1,
1141 2011, there is hereby imposed a resident day user fee on each
1142 intermediate care facility for [the mentally retarded] individuals with
1143 intellectual disabilities in this state, which fee shall be the product of
1144 the facility's total resident days during the calendar quarter multiplied
1145 by the user fee, as determined by the Commissioner of Social Services
1146 pursuant to section 17b-340b, as amended by this act.

1147 (2) Each intermediate care facility for [the mentally retarded]
1148 individuals with intellectual disabilities shall, on or before the last day
1149 of January, April, July and October of each year, render to the
1150 commissioner a return, on forms prescribed or furnished by the
1151 commissioner, stating the intermediate care facility's total resident
1152 days during the calendar quarter ending on the last day of the
1153 preceding month and stating such other information as the
1154 commissioner deems necessary for the proper administration of the
1155 provisions of this section. The resident day user fee imposed under
1156 this section shall be due and payable on the due date of such return.
1157 Each intermediate care facility shall be required to file such return
1158 electronically with the department and to make such payment by
1159 electronic funds transfer in the manner provided by chapter 228g,
1160 irrespective of whether such facility would have otherwise been
1161 required to file such return electronically or to make such payment by
1162 electronic funds transfer under the provisions of chapter 228g.

1163 (c) Whenever such resident day user fee is not paid when due, a
1164 penalty of ten per cent of the amount due or fifty dollars, whichever is
1165 greater, shall be imposed, and interest at the rate of one per cent per
1166 month or a fraction thereof shall accrue on such user fee from the due
1167 date of such user fee until the date of payment.

1168 (d) The commissioner shall notify the Commissioner of Social

1169 Services of any amount delinquent under section 17b-340b, as
1170 amended by this act, and, upon receipt of such notice, the
1171 Commissioner of Social Services shall deduct and withhold such
1172 amount from amounts otherwise payable by the Department of Social
1173 Services to the delinquent facility.

1174 (e) The provisions of section 12-548, sections 12-550 to 12-554,
1175 inclusive, and section 12-555a shall apply to the provisions of this
1176 section in the same manner and with the same force and effect as if the
1177 language of said sections had been incorporated in full into this section
1178 and had expressly referred to the user fee imposed under this section,
1179 except to the extent that any provision is inconsistent with a provision
1180 in this section. For purposes of section 12-39g, the resident day user fee
1181 shall be treated as a tax.

1182 (f) The commissioner may enter into an agreement with the
1183 Commissioner of Social Services delegating to the Commissioner of
1184 Social Services the authority to examine the records and returns of any
1185 intermediate care facility for [the mentally retarded] individuals with
1186 intellectual disabilities in this state subject to the resident day user fee
1187 imposed under this section and to determine whether such user fee has
1188 been underpaid or overpaid. If such authority is so delegated,
1189 examinations of such records and returns by the Commissioner of
1190 Social Services and determinations by the Commissioner of Social
1191 Services that such user fee has been underpaid or overpaid shall have
1192 the same effect as similar examinations or determinations made by the
1193 Commissioner of Revenue Services.

1194 (g) (1) The commissioner shall not collect the resident day user fee
1195 pursuant to this section until the Commissioner of Social Services
1196 informs the commissioner that all the necessary federal approvals are
1197 in effect to secure federal financial participation matching funds
1198 associated with any authorized facility rate increases.

1199 (2) The commissioner shall cease to collect the resident day user fee

1200 pursuant to this section if the Commissioner of Social Services informs
1201 the commissioner that the federal approvals described in subdivision
1202 (1) of this subsection are withheld or withdrawn.

1203 Sec. 11. Section 17b-340b of the general statutes is repealed and the
1204 following is substituted in lieu thereof (*Effective October 1, 2013*):

1205 On or before July 1, 2011, and on or before July first annually or
1206 biennially thereafter, the Commissioner of Social Services shall
1207 determine the amount of the user fee and promptly notify the
1208 commissioner and the intermediate care facilities for [the mentally
1209 retarded] individuals with intellectual disabilities of such amount. The
1210 user fee shall be (1) the sum of each facility's anticipated net revenue,
1211 including, but not limited to, its estimated net revenue from any
1212 increases in Medicaid payments during the twelve-month period
1213 ending on June thirtieth of the succeeding calendar year, (2) which
1214 sum shall be multiplied by a percentage as determined by the
1215 Secretary of the Office of Policy and Management, in consultation with
1216 the Commissioner of Social Services, provided, before October 1, 2011,
1217 such percentage shall not exceed five and one-half per cent and, on
1218 and after October 1, 2011, such percentage shall not exceed the
1219 maximum amount allowed under federal law, and (3) which product
1220 shall be divided by the sum of each facility's anticipated resident days
1221 during the twelve-month period ending on June thirtieth of the
1222 succeeding calendar year. The Commissioner of Social Services, in
1223 anticipating facility net revenue and resident days, shall use the most
1224 recently available facility net revenue and resident day information.
1225 Notwithstanding the provisions of this section, the Commissioner of
1226 Social Services may adjust the user fee as necessary to prevent the state
1227 from exceeding the maximum amount allowed under federal law.

1228 Sec. 12. Section 17b-352 of the general statutes is repealed and the
1229 following is substituted in lieu thereof (*Effective October 1, 2013*):

1230 (a) For the purposes of this section and section 17b-353, "facility"

1231 means a residential facility for [the mentally retarded] persons with
1232 intellectual disability licensed pursuant to section 17a-277 and certified
1233 to participate in the Title XIX Medicaid program as an intermediate
1234 care facility for [the mentally retarded] individuals with intellectual
1235 disabilities, a nursing home, rest home or residential care home, as
1236 defined in section 19a-490, as amended by this act.

1237 (b) Any facility which intends to (1) transfer all or part of its
1238 ownership or control prior to being initially licensed; (2) introduce any
1239 additional function or service into its program of care or expand an
1240 existing function or service; or (3) terminate a service or decrease
1241 substantially its total bed capacity, shall submit a complete request for
1242 permission to implement such transfer, addition, expansion, increase,
1243 termination or decrease with such information as the department
1244 requires to the Department of Social Services, provided no permission
1245 or request for permission to close a facility is required when a facility
1246 in receivership is closed by order of the Superior Court pursuant to
1247 section 19a-545. The Office of the Long-Term Care Ombudsman
1248 pursuant to section 17b-400 shall be notified by the facility of any
1249 proposed actions pursuant to this subsection at the same time the
1250 request for permission is submitted to the department and when a
1251 facility in receivership is closed by order of the Superior Court
1252 pursuant to section 19a-545.

1253 (c) An applicant, prior to submitting a certificate of need
1254 application, shall request, in writing, application forms and
1255 instructions from the department. The request shall include: (1) The
1256 name of the applicant or applicants; (2) a statement indicating whether
1257 the application is for (A) a new, additional, expanded or replacement
1258 facility, service or function, (B) a termination or reduction in a
1259 presently authorized service or bed capacity or (C) any new, additional
1260 or terminated beds and their type; (3) the estimated capital cost; (4) the
1261 town where the project is or will be located; and (5) a brief description
1262 of the proposed project. Such request shall be deemed a letter of intent.
1263 No certificate of need application shall be considered submitted to the

1264 department unless a current letter of intent, specific to the proposal
1265 and in accordance with the provisions of this subsection, has been on
1266 file with the department for not less than ten business days. For
1267 purposes of this subsection, "a current letter of intent" means a letter of
1268 intent on file with the department for not more than one hundred
1269 eighty days. A certificate of need application shall be deemed
1270 withdrawn by the department, if a department completeness letter is
1271 not responded to within one hundred eighty days. The Office of the
1272 Long-Term Care Ombudsman shall be notified by the facility at the
1273 same time as the letter of intent is submitted to the department.

1274 (d) Any facility acting pursuant to subdivision (3) of subsection (b)
1275 of this section shall provide written notice, at the same time it submits
1276 its letter of intent, to all patients, guardians or conservators, if any, or
1277 legally liable relatives or other responsible parties, if known, and shall
1278 post such notice in a conspicuous location at the facility. The notice
1279 shall state the following: (A) The projected date the facility will be
1280 submitting its certificate of need application, (B) that only the
1281 department has the authority to either grant, modify or deny the
1282 application, (C) that the department has up to ninety days to grant,
1283 modify or deny the certificate of need application, (D) a brief
1284 description of the reason or reasons for submitting a request for
1285 permission, (E) that no patient shall be involuntarily transferred or
1286 discharged within or from a facility pursuant to state and federal law
1287 because of the filing of the certificate of need application, (F) that all
1288 patients have a right to appeal any proposed transfer or discharge, and
1289 (G) the name, mailing address and telephone number of the Office of
1290 the Long-Term Care Ombudsman and local legal aid office.

1291 (e) The department shall review a request made pursuant to
1292 subsection (b) of this section to the extent it deems necessary,
1293 including, but not limited to, in the case of a proposed transfer of
1294 ownership or control prior to initial licensure, the financial
1295 responsibility and business interests of the transferee and the ability of
1296 the facility to continue to provide needed services, or in the case of the

1297 addition or expansion of a function or service, ascertaining the
1298 availability of the function or service at other facilities within the area
1299 to be served, the need for the service or function within the area and
1300 any other factors the department deems relevant to a determination of
1301 whether the facility is justified in adding or expanding the function or
1302 service. The commissioner shall grant, modify or deny the request
1303 within ninety days of receipt thereof, except as otherwise provided in
1304 this section. Upon the request of the applicant, the review period may
1305 be extended for an additional fifteen days if the department has
1306 requested additional information subsequent to the commencement of
1307 the commissioner's review period. The director of the office of
1308 certificate of need and rate setting may extend the review period for a
1309 maximum of thirty days if the applicant has not filed in a timely
1310 manner information deemed necessary by the department. The
1311 applicant may request and shall receive a hearing in accordance with
1312 section 4-177 if aggrieved by a decision of the commissioner.

1313 (f) The Commissioner of Social Services shall not approve any
1314 requests for beds in residential facilities for [the mentally retarded]
1315 persons with intellectual disability which are licensed pursuant to
1316 section 17a-227 and are certified to participate in the Title XIX
1317 Medicaid Program as intermediate care facilities for [the mentally
1318 retarded] individuals with intellectual disabilities, except those beds
1319 necessary to implement the residential placement goals of the
1320 Department of Developmental Services which are within available
1321 appropriations.

1322 (g) The Commissioner of Social Services shall adopt regulations, in
1323 accordance with chapter 54, to implement the provisions of this
1324 section. The commissioner shall implement the standards and
1325 procedures of the Office of Health Care Access division of the
1326 Department of Public Health concerning certificates of need
1327 established pursuant to section 19a-643, as appropriate for the
1328 purposes of this section, until the time final regulations are adopted in
1329 accordance with said chapter 54.

1330 Sec. 13. Section 17b-356 of the general statutes is repealed and the
1331 following is substituted in lieu thereof (*Effective October 1, 2013*):

1332 Any health care facility or institution, as defined in subsection (a) of
1333 section 19a-490, as amended by this act, except a nursing home, rest
1334 home, residential care home or residential facility for [the mentally
1335 retarded] persons with intellectual disability licensed pursuant to
1336 section 17a-227 and certified to participate in the Title XIX Medicaid
1337 program as an intermediate care facility for [the mentally retarded]
1338 individuals with intellectual disabilities, proposing to expand its
1339 services by adding nursing home beds shall obtain the approval of the
1340 Commissioner of Social Services in accordance with the procedures
1341 established pursuant to sections 17b-352, as amended by this act, 17b-
1342 353 and 17b-354 for a facility, as defined in section 17b-352, as
1343 amended by this act, prior to obtaining the approval of the Office of
1344 Health Care Access division of the Department of Public Health
1345 pursuant to section 19a-639.

1346 Sec. 14. Section 17b-363b of the general statutes is repealed and the
1347 following is substituted in lieu thereof (*Effective October 1, 2013*):

1348 (a) The Commissioner of Social Services may, within available
1349 appropriations, provide reimbursement to pharmacies or pharmacists
1350 for services provided to residents in long-term care facilities, including
1351 (1) residential care homes, nursing homes or rest homes, as defined in
1352 section 19a-490, as amended by this act, (2) residential facilities for
1353 [mentally retarded persons] persons with intellectual disability, as
1354 defined in section 17a-231, or (3) facilities served by assisted living
1355 services agencies, as defined in section 19a-490, as amended by this act,
1356 in addition to those reimbursements provided in chapter 319v,
1357 provided such services improve the quality of care to residents of such
1358 facilities and produce cost savings to the state, as determined by the
1359 commissioner. Such services may include, but not be limited to,
1360 emergency and delivery services provided such services are offered on
1361 all medications, including intravenous therapy, twenty-four hours per

1362 day and seven days per week.

1363 (b) The Commissioner of Social Services may reimburse for
1364 prescription drug costs in unit dose packaging, including blister packs
1365 and other special packaging, for clients residing in nursing facilities,
1366 chronic disease hospitals and intermediate care facilities for [the
1367 mentally retarded] individuals with intellectual disabilities.

1368 Sec. 15. Subsection (a) of section 19a-490 of the general statutes is
1369 repealed and the following is substituted in lieu thereof (*Effective*
1370 *October 1, 2013*):

1371 (a) "Institution" means a hospital, residential care home, health care
1372 facility for the handicapped, nursing home, rest home, home health
1373 care agency, homemaker-home health aide agency, mental health
1374 facility, assisted living services agency, substance abuse treatment
1375 facility, outpatient surgical facility, an infirmary operated by an
1376 educational institution for the care of students enrolled in, and faculty
1377 and employees of, such institution; a facility engaged in providing
1378 services for the prevention, diagnosis, treatment or care of human
1379 health conditions, including facilities operated and maintained by any
1380 state agency, except facilities for the care or treatment of mentally ill
1381 persons or persons with substance abuse problems; and a residential
1382 facility for [the mentally retarded] persons with intellectual disability
1383 licensed pursuant to section 17a-227 and certified to participate in the
1384 Title XIX Medicaid program as an intermediate care facility for [the
1385 mentally retarded] individuals with intellectual disabilities;

1386 Sec. 16. Subdivision (4) of subsection (a) of section 19a-491c of the
1387 general statutes is repealed and the following is substituted in lieu
1388 thereof (*Effective October 1, 2013*):

1389 (4) "Long-term care facility" means any facility, agency or provider
1390 that is a nursing home, as defined in section 19a-521, a home health
1391 agency, as defined in section 19a-490, as amended by this act, an
1392 assisted living services agency, as defined in section 19a-490, as

1393 amended by this act, an intermediate care facility for [the mentally
 1394 retarded] individuals with intellectual disabilities, as defined in 42
 1395 USC 1396d(d), a chronic disease hospital, as defined in section 19a-550,
 1396 or an agency providing hospice care which is licensed to provide such
 1397 care by the Department of Public Health or certified to provide such
 1398 care pursuant to 42 USC 1395x.

1399 Sec. 17. Subdivision (17) of subsection (b) of section 19a-638 of the
 1400 general statutes is repealed and the following is substituted in lieu
 1401 thereof (*Effective October 1, 2013*):

1402 (17) A residential facility for persons with intellectual disability
 1403 licensed pursuant to section 17a-227 and certified to participate in the
 1404 Title XIX Medicaid program as an intermediate care facility for [the
 1405 mentally retarded] individuals with intellectual disabilities;

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	17a-220(3)
Sec. 2	<i>October 1, 2013</i>	17a-228(a) to (c)
Sec. 3	<i>October 1, 2013</i>	17b-99a(a)
Sec. 4	<i>October 1, 2013</i>	17b-106(b)
Sec. 5	<i>October 1, 2013</i>	17b-244a
Sec. 6	<i>October 1, 2013</i>	17b-260d
Sec. 7	<i>October 1, 2013</i>	17b-278
Sec. 8	<i>October 1, 2013</i>	17b-280(a)
Sec. 9	<i>October 1, 2013</i>	17b-340
Sec. 10	<i>October 1, 2013</i>	17b-340a
Sec. 11	<i>October 1, 2013</i>	17b-340b
Sec. 12	<i>October 1, 2013</i>	17b-352
Sec. 13	<i>October 1, 2013</i>	17b-356
Sec. 14	<i>October 1, 2013</i>	17b-363b
Sec. 15	<i>October 1, 2013</i>	19a-490(a)
Sec. 16	<i>October 1, 2013</i>	19a-491c(a)(4)
Sec. 17	<i>October 1, 2013</i>	19a-638(b)(17)

Statement of Purpose:

To replace the terms "intermediate care facility for the mentally retarded" and "residential facility for the mentally retarded" with "intermediate care facility for individuals with intellectual disabilities" and "residential facility for persons with intellectual disability", respectively, in accordance with the federal terminology.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]