



Senate Bill No. 1060

Public Act No. 13-249

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

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

Section 1. Section 19a-491a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2014*):

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

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

(2) A description of the relevant business experience of the owner

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and of the administrator of the nursing home and evidence that the administrator has a license issued pursuant to section 19a-514;

(3) Affidavits signed by the owner, any of the persons described in subdivision (1) of this subsection, the administrator, assistant administrator, the medical director, the director of nursing and assistant director of nursing disclosing any matter in which such person has been convicted of a felony, as defined in section 53a-25, or has pleaded nolo contendere to a felony charge, or has been held liable or enjoined in a civil action by final judgment, if the felony or civil action involved fraud, embezzlement, fraudulent conversion or misappropriation of property; or is subject to an injunction or restrictive or remedial order of a court of record at the time of application, within the past five years has had any state or federal license or permit suspended or revoked as a result of an action brought by a governmental agency or department, arising out of or relating to health care business activity, including, but not limited to, actions affecting the operation of a nursing home, retirement home, residential care home or any facility subject to sections 17b-520 to 17b-535, inclusive, or a similar statute in another state or country;

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

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

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

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

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

(b) In addition to the information provided pursuant to subsection (a) of this section, the commissioner may reasonably require an applicant for a nursing home license or renewal of a nursing home license to submit additional information. Such information may include audited and certified financial statements of the owner, including, (1) a balance sheet as of the end of the most recent fiscal year, and (2) income statements for the most recent fiscal year of the owner or such shorter period of time as the owner shall have been in existence.

(c) No person acting individually or jointly with any other person shall establish, conduct, operate or maintain a nursing home without maintaining professional liability insurance or other indemnity against liability for professional malpractice. The amount of insurance which such person shall maintain as insurance or indemnity against claims for injury or death for professional malpractice shall be not less than one million dollars for one person, per occurrence, with an aggregate of not less than three million dollars. The requirements of this subsection shall not apply to any person who establishes, conducts, operates or maintains a residential care home.

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

Sec. 2. Section 19a-491 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2014*):

(a) No person acting individually or jointly with any other person shall establish, conduct, operate or maintain an institution in this state without a license as required by this chapter, except for persons issued a license by the Commissioner of Children and Families pursuant to section 17a-145 for the operation of (1) a substance abuse treatment facility, or (2) a facility for the purpose of caring for women during pregnancies and for women and their infants following such pregnancies. Application for such license shall be made to the Department of Public Health upon forms provided by it and shall contain such information as the department requires, which may include affirmative evidence of ability to comply with reasonable standards and regulations prescribed under the provisions of this chapter. The commissioner may require as a condition of licensure that

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an applicant sign a consent order providing reasonable assurances of compliance with the Public Health Code. The commissioner may issue more than one chronic disease hospital license to a single institution until such time as the state offers a rehabilitation hospital license.

(b) If any person acting individually or jointly with any other person owns real property or any improvements thereon, upon or within which an institution, as defined in subsection (c) of section 19a-490, is established, conducted, operated or maintained and is not the licensee of the institution, such person shall submit a copy of the lease agreement to the department at the time of any change of ownership and with each license renewal application. The lease agreement shall, at a minimum, identify the person or entity responsible for the maintenance and repair of all buildings and structures within which such an institution is established, conducted or operated. If a violation is found as a result of an inspection or investigation, the commissioner may require the owner to sign a consent order providing assurances that repairs or improvements necessary for compliance with the provisions of the Public Health Code shall be completed within a specified period of time or may assess a civil penalty of not more than one thousand dollars for each day that such owner is in violation of the Public Health Code or a consent order. A consent order may include a provision for the establishment of a temporary manager of such real property who has the authority to complete any repairs or improvements required by such order. Upon request of the Commissioner of Public Health, the Attorney General may petition the Superior Court for such equitable and injunctive relief as such court deems appropriate to ensure compliance with the provisions of a consent order. The provisions of this subsection shall not apply to any property or improvements owned by a person licensed in accordance with the provisions of subsection (a) of this section to establish, conduct, operate or maintain an institution on or within such property or improvements.

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

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

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

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

(g) The commissioner may require as a condition of the licensure of

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

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

[(h)] (i) On and after June 15, 2012, until June 30, 2017, the commissioner shall not issue or renew a license under this chapter for any hospital certified to participate in the Medicare program as a long-term care hospital under Section 1886(d)(1)(B)(iv) of the Social Security Act (42 USC 1395ww) unless such hospital was so certified under said federal act on January 1, 2012.

Sec. 3. Subdivision (1) of subsection (b) of section 19a-493 of the general statutes is repealed and the following is substituted in lieu

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thereof (*Effective January 1, 2014*):

(b) (1) A nursing home license may be renewed biennially after (A) an unscheduled inspection conducted by the department, (B) submission of the information required by [subsections (a) and (c) of section 19a-491a and any other information required by the commissioner pursuant to subsection (b) of said] section 19a-491a, as amended by this act, and (C) submission of evidence satisfactory to the department that the nursing home is in compliance with the provisions of this chapter, the Public Health Code and licensing regulations.

Approved July 11, 2013