



General Assembly

February Session, 2014

Raised Bill No. 406

LCO No. 2232



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING CERTIFICATES OF NEED FOR NURSING HOMES.

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

1 Section 1. Section 17b-352 of the 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2014*):

4 (a) For the purposes of this section, [and section 17b-353,] "facility"
5 means a residential facility for persons with intellectual disability
6 licensed pursuant to section 17a-277 and certified to participate in the
7 Title XIX Medicaid program as an intermediate care facility for
8 individuals with intellectual disabilities, a nursing home, rest home or
9 residential care home, as defined in section 19a-490.

10 [(b) Any facility which intends to (1) transfer all or part of its
11 ownership or control prior to being initially licensed; (2) introduce any
12 additional function or service into its program of care or expand an
13 existing function or service; or (3) terminate a service or decrease
14 substantially its total bed capacity, shall submit a complete request for

15 permission to implement such transfer, addition, expansion, increase,
16 termination or decrease with such information as the department
17 requires to the Department of Social Services, provided no permission
18 or request for permission to close a facility is required when a facility
19 in receivership is closed by order of the Superior Court pursuant to
20 section 19a-545. The Office of the Long-Term Care Ombudsman
21 pursuant to section 17b-400 shall be notified by the facility of any
22 proposed actions pursuant to this subsection at the same time the
23 request for permission is submitted to the department and when a
24 facility in receivership is closed by order of the Superior Court
25 pursuant to section 19a-545.

26 (c) An applicant, prior to submitting a certificate of need
27 application, shall request, in writing, application forms and
28 instructions from the department. The request shall include: (1) The
29 name of the applicant or applicants; (2) a statement indicating whether
30 the application is for (A) a new, additional, expanded or replacement
31 facility, service or function, (B) a termination or reduction in a
32 presently authorized service or bed capacity, or (C) any new,
33 additional or terminated beds and their type; (3) the estimated capital
34 cost; (4) the town where the project is or will be located; and (5) a brief
35 description of the proposed project. Such request shall be deemed a
36 letter of intent. No certificate of need application shall be considered
37 submitted to the department unless a current letter of intent, specific to
38 the proposal and in accordance with the provisions of this subsection,
39 has been on file with the department for not less than ten business
40 days. For purposes of this subsection, "a current letter of intent" means
41 a letter of intent on file with the department for not more than one
42 hundred eighty days. A certificate of need application shall be deemed
43 withdrawn by the department, if a department completeness letter is
44 not responded to within one hundred eighty days. The Office of the
45 Long-Term Care Ombudsman shall be notified by the facility at the
46 same time as the letter of intent is submitted to the department.

47 (d) Any facility acting pursuant to subdivision (3) of subsection (b)

48 of this section shall provide written notice, at the same time it submits
49 its letter of intent, to all patients, guardians or conservators, if any, or
50 legally liable relatives or other responsible parties, if known, and shall
51 post such notice in a conspicuous location at the facility. The notice
52 shall state the following: (A) The projected date the facility will be
53 submitting its certificate of need application, (B) that only the
54 department has the authority to either grant, modify or deny the
55 application, (C) that the department has up to ninety days to grant,
56 modify or deny the certificate of need application, (D) a brief
57 description of the reason or reasons for submitting a request for
58 permission, (E) that no patient shall be involuntarily transferred or
59 discharged within or from a facility pursuant to state and federal law
60 because of the filing of the certificate of need application, (F) that all
61 patients have a right to appeal any proposed transfer or discharge, and
62 (G) the name, mailing address and telephone number of the Office of
63 the Long-Term Care Ombudsman and local legal aid office.

64 (e) The department shall review a request made pursuant to
65 subsection (b) of this section to the extent it deems necessary,
66 including, but not limited to, in the case of a proposed transfer of
67 ownership or control prior to initial licensure, the financial
68 responsibility and business interests of the transferee and the ability of
69 the facility to continue to provide needed services, or in the case of the
70 addition or expansion of a function or service, ascertaining the
71 availability of the function or service at other facilities within the area
72 to be served, the need for the service or function within the area and
73 any other factors the department deems relevant to a determination of
74 whether the facility is justified in adding or expanding the function or
75 service. The commissioner shall grant, modify or deny the request
76 within ninety days of receipt thereof, except as otherwise provided in
77 this section. Upon the request of the applicant, the review period may
78 be extended for an additional fifteen days if the department has
79 requested additional information subsequent to the commencement of
80 the commissioner's review period. The director of the office of

81 certificate of need and rate setting may extend the review period for a
82 maximum of thirty days if the applicant has not filed in a timely
83 manner information deemed necessary by the department. The
84 applicant may request and shall receive a hearing in accordance with
85 section 4-177 if aggrieved by a decision of the commissioner.]

86 (b) A certificate of need issued by the Department of Social Services
87 shall be required for:

88 (1) Establishment of a new facility;

89 (2) Termination of a service or services;

90 (3) Closure of a facility, unless a facility in receivership is closed by
91 order of the Superior Court pursuant to section 19a-545;

92 (4) An increase or decrease in the licensed bed capacity of a facility;
93 and

94 (5) Capital expenditures in excess of two million dollars.

95 The facility shall notify the Office of the Long-Term Care Ombudsman
96 of any proposed actions to be taken pursuant to this subsection at the
97 same time the certificate of need application is submitted to the
98 department and when a facility in receivership is closed by order of the
99 Superior Court pursuant to section 19a-545. Notwithstanding any
100 other provision of the general statutes, the Commissioner of Social
101 Services may not require a facility to seek certificate of need approval
102 in accordance with this section if the facility can demonstrate the
103 request is associated with an approved long-term care rebalancing
104 project or nursing facility diversification project. The Commissioner of
105 Social Services may establish a pilot program to seek competitive
106 procurement of up to thirty-five beds at licensed nursing facilities
107 provided there is clear public need in accordance with subsection (c) of
108 section 17b-353, as amended by this act.

109 (c) The Department of Social Services shall not accept or approve

110 any requests for additional nursing home beds or to modify the capital
111 cost of any prior approval, through June 30, 2016, except if the beds
112 requested are (1) restricted to use by patients with acquired immune
113 deficiency syndrome or traumatic brain injury; (2) associated with a
114 continuing care facility that does not participate in the Medicaid
115 program, is a facility providing shelter and care pursuant to a
116 continuing care contract, as defined in section 17b-520, and is
117 registered as a continuing care facility pursuant to section 17b-521; (3)
118 Medicaid-certified beds to be relocated from one licensed nursing
119 facility to another licensed nursing facility, to a new facility to meet a
120 priority need identified in the strategic plan developed pursuant to
121 subsection (c) of section 17b-369, or to a small house nursing home, as
122 defined in section 17b-372, provided (A) the availability of beds in an
123 area of need will not be adversely affected, (B) no such relocation shall
124 result in an increase in state expenditures, and (C) the relocation
125 results in a reduction in the number of nursing facility beds in the
126 state; (4) at a facility operated exclusively by and for a religious order
127 which is committed to the care and well-being of its members for the
128 duration of their lives and whose members are bound thereto by the
129 profession of permanent vows; (5) twenty or fewer beds associated
130 with a free standing facility dedicated to providing hospice care
131 services for terminally ill persons operated by an organization
132 authorized by the Department of Public Health to provide hospice
133 services in accordance with section 19a-122b.

134 (d) The Commissioner of Social Services may waive or modify any
135 requirement of this section, except subdivision (2) of subsection (c) of
136 this section.

137 [(f)] (e) The Commissioner of Social Services shall not approve any
138 requests for beds in residential facilities for persons with intellectual
139 disability which are licensed pursuant to section 17a-227 and are
140 certified to participate in the Title XIX Medicaid Program as
141 intermediate care facilities for individuals with intellectual disabilities,
142 except those beds necessary to implement the residential placement

143 goals of the Department of Developmental Services which are within
144 available appropriations.

145 [(g)] (f) The Commissioner of Social Services shall adopt regulations,
146 in accordance with chapter 54, to implement the provisions of this
147 section. [The commissioner shall implement the standards and
148 procedures of the Office of Health Care Access division of the
149 Department of Public Health concerning certificates of need
150 established pursuant to section 19a-643, as appropriate for the
151 purposes of this section, until the time final regulations are adopted in
152 accordance with said chapter 54.]

153 Sec. 2. Section 17b-353 of the general statutes is repealed and the
154 following is substituted in lieu thereof (*Effective July 1, 2014*):

155 [(a) Any facility, as defined in subsection (a) of section 17b-352,
156 which proposes (1) a capital expenditure exceeding one million
157 dollars, which increases facility square footage by more than five
158 thousand square feet or five per cent of the existing square footage,
159 whichever is greater, (2) a capital expenditure exceeding two million
160 dollars, or (3) the acquisition of major medical equipment requiring a
161 capital expenditure in excess of four hundred thousand dollars,
162 including the leasing of equipment or space, shall submit a request for
163 approval of such expenditure, with such information as the
164 department requires, to the Department of Social Services. Any such
165 facility which proposes to acquire imaging equipment requiring a
166 capital expenditure in excess of four hundred thousand dollars,
167 including the leasing of such equipment, shall obtain the approval of
168 the Office of Health Care Access division of the Department of Public
169 Health in accordance with the provisions of chapter 368z, subsequent
170 to obtaining the approval of the Commissioner of Social Services. Prior
171 to the facility's obtaining the imaging equipment, the Commissioner of
172 Public Health, after consultation with the Commissioner of Social
173 Services, may elect to perform a joint or simultaneous review with the
174 Department of Social Services.

175 (b) An applicant, prior to submitting a certificate of need
176 application, shall request, in writing, application forms and
177 instructions from the department. The request shall include: (1) The
178 name of the applicant or applicants; (2) a statement indicating whether
179 the application is for (A) a new, additional, expanded or replacement
180 facility, service or function, (B) a termination or reduction in a
181 presently authorized service or bed capacity, or (C) any new,
182 additional or terminated beds and their type; (3) the estimated capital
183 cost; (4) the town where the project is or will be located; and (5) a brief
184 description of the proposed project. Such request shall be deemed a
185 letter of intent. No certificate of need application shall be considered
186 submitted to the department unless a current letter of intent, specific to
187 the proposal and in accordance with the provisions of this subsection,
188 has been on file with the department for not less than ten business
189 days. For purposes of this subsection, "a current letter of intent" means
190 a letter of intent on file with the department for not more than one
191 hundred eighty days. A certificate of need application shall be deemed
192 withdrawn by the department if a department completeness letter is
193 not responded to within one hundred eighty days.

194 (c) In conducting its activities pursuant to this section, section 17b-
195 352 or both, except as provided for in subsection (d) of this section, the
196 Commissioner of Social Services or said commissioner's designee may
197 hold a public hearing on an application or on more than one
198 application, if such applications are of a similar nature with respect to
199 the request. At least two weeks' notice of the hearing shall be given to
200 the facility by certified mail and to the public by publication in a
201 newspaper having a substantial circulation in the area served by the
202 facility. Such hearing shall be held at the discretion of the
203 commissioner in Hartford or in the area so served. The commissioner
204 or the commissioner's designee shall consider such request in relation
205 to the community or regional need for such capital program or
206 purchase of land, the possible effect on the operating costs of the
207 facility and such other relevant factors as the commissioner or the

208 commissioner's designee deems necessary. In approving or modifying
209 such request, the commissioner or the commissioner's designee may
210 not prescribe any condition, such as, but not limited to, any condition
211 or limitation on the indebtedness of the facility in connection with a
212 bond issued, the principal amount of any bond issued or any other
213 details or particulars related to the financing of such capital
214 expenditure, not directly related to the scope of such capital program
215 and within the control of the facility. If the hearing is conducted by a
216 designee of the commissioner, the designee shall submit any findings
217 and recommendations to the commissioner. The commissioner shall
218 grant, modify or deny such request within ninety days, except as
219 provided for in this section. Upon the request of the applicant, the
220 review period may be extended for an additional fifteen days if the
221 commissioner or the commissioner's designee has requested additional
222 information subsequent to the commencement of the review period.
223 The commissioner or the commissioner's designee may extend the
224 review period for a maximum of thirty days if the applicant has not
225 filed in a timely manner information deemed necessary by the
226 commissioner or the commissioner's designee.

227 (d) No facility shall be allowed to close or decrease substantially its
228 total bed capacity until such time as a public hearing has been held in
229 accordance with the provisions of this subsection and the
230 Commissioner of Social Services has approved the facility's request
231 unless such decrease is associated with a census reduction. The
232 commissioner may impose a civil penalty of not more than five
233 thousand dollars on any facility that fails to comply with the
234 provisions of this subsection. Penalty payments received by the
235 commissioner pursuant to this subsection shall be deposited in the
236 special fund established by the department pursuant to subsection (c)
237 of section 17b-357 and used for the purposes specified in said
238 subsection (c). The commissioner or the commissioner's designee shall
239 hold a public hearing upon the earliest occurrence of: (1) Receipt of
240 any letter of intent submitted by a facility to the department, or (2)

241 receipt of any certificate of need application. Such hearing shall be held
242 at the facility for which the letter of intent or certificate of need
243 application was submitted not later than thirty days after the date on
244 which such letter or application was received by the commissioner.
245 The commissioner or the commissioner's designee shall provide both
246 the facility and the public with notice of the date of the hearing not less
247 than fourteen days in advance of such date. Notice to the facility shall
248 be by certified mail and notice to the public shall be by publication in a
249 newspaper having a substantial circulation in the area served by the
250 facility.]

251 (a) In any deliberation involving a certificate of need application
252 filed pursuant to section 17b-352, as amended by this act, the
253 Department of Social Services shall consider the following guidelines
254 and principles:

255 (1) The financial feasibility of the request and its impact on the
256 applicant's rates and financial condition;

257 (2) The contribution of the request to the quality, accessibility and
258 cost-effectiveness of health care delivery in the region;

259 (3) Whether there is clear public need for the request;

260 (4) The relationship of any proposed change to the applicant's
261 current utilization statistics; and

262 (5) The business interests of all owners, partners, associates,
263 incorporators, directors, sponsors, stockholders and operators and the
264 personal background of such persons, and any other factor which the
265 department deems relevant.

266 (b) In considering whether there is clear public need for any request
267 for additional nursing home beds associated with a continuing care
268 facility submitted pursuant to section 17b-352, as amended by this act,
269 the commissioner may consider the need for beds for current and

270 prospective residents of the continuing care facility.

271 (c) In considering whether there is clear public need for any request
272 for the relocation of beds, the commissioner shall consider whether
273 there is a demonstrated bed need in the towns within a fifteen-mile
274 radius of the town in which the beds are proposed to be located. Bed
275 need shall be based on the recent occupancy percentage of area
276 nursing facilities and the projected bed need for not more than five
277 years into the future at ninety-seven and one-half per cent occupancy
278 using the latest official population projections by town and age as
279 published by the Office of Policy and Management or the latest
280 available state-wide nursing facility utilization statistics by age cohort
281 from the Department of Public Health. The commissioner may also
282 consider area specific utilization and reductions in utilization rates to
283 account for the increased use of less institutional alternatives.

284 [(e)] (d) The Commissioner of Social Services shall adopt
285 regulations, in accordance with chapter 54, to implement the
286 provisions of this section. [The commissioner shall implement the
287 standards and procedures of the Office of Health Care Access division
288 of the Department of Public Health concerning certificates of need
289 established pursuant to section 19a-643, as appropriate for the
290 purposes of this section, until the time final regulations are adopted in
291 accordance with said chapter 54.]

292 Sec. 3. Section 17b-354 of the general statutes is repealed and the
293 following is substituted in lieu thereof (*Effective July 1, 2014*):

294 [(a) Except for applications deemed complete as of August 9, 1991,
295 the Department of Social Services shall not accept or approve any
296 requests for additional nursing home beds or modify the capital cost of
297 any prior approval for the period from September 4, 1991, through
298 June 30, 2016, except (1) beds restricted to use by patients with
299 acquired immune deficiency syndrome or traumatic brain injury; (2)
300 beds associated with a continuing care facility which guarantees life

301 care for its residents; (3) Medicaid certified beds to be relocated from
302 one licensed nursing facility to another licensed nursing facility, to a
303 new facility to meet a priority need identified in the strategic plan
304 developed pursuant to subsection (c) of section 17b-369, or to a small
305 house nursing home, as defined in section 17b-372, provided (A) the
306 availability of beds in an area of need will not be adversely affected;
307 (B) no such relocation shall result in an increase in state expenditures;
308 and (C) the relocation results in a reduction in the number of nursing
309 facility beds in the state; (4) a request for no more than twenty beds
310 submitted by a licensed nursing facility that participates in neither the
311 Medicaid program nor the Medicare program, admits residents and
312 provides health care to such residents without regard to their income
313 or assets and demonstrates its financial ability to provide lifetime
314 nursing home services to such residents without participating in the
315 Medicaid program to the satisfaction of the department, provided the
316 department does not accept or approve more than one request
317 pursuant to this subdivision; (5) a request for no more than twenty
318 beds associated with a freestanding facility dedicated to providing
319 hospice care services for terminally ill persons operated by an
320 organization previously authorized by the Department of Public
321 Health to provide hospice services in accordance with section 19a-
322 122b; and (6) new or existing Medicaid certified beds to be relocated
323 from a licensed nursing facility in a municipality with a 2004 estimated
324 population of one hundred twenty-five thousand to a location within
325 the same municipality, provided such Medicaid certified beds do not
326 exceed sixty beds. Notwithstanding the provisions of this subsection,
327 any provision of the general statutes or any decision of the Office of
328 Health Care Access, (i) the date by which construction shall begin for
329 each nursing home certificate of need in effect August 1, 1991, shall be
330 December 31, 1992, (ii) the date by which a nursing home shall be
331 licensed under each such certificate of need shall be October 1, 1995,
332 and (iii) the imposition of such dates shall not require action by the
333 Commissioner of Social Services. Except as provided in subsection (c)
334 of this section, a nursing home certificate of need in effect August 1,

335 1991, shall expire if construction has not begun or licensure has not
336 been obtained in compliance with the dates set forth in subparagraphs
337 (i) and (ii) of this subsection.

338 (b) For the purposes of subsection (a) of this section, "a continuing
339 care facility which guarantees life care for its residents" means: (1) A
340 facility which does not participate in the Medicaid program; (2) a
341 facility which establishes its financial stability by submitting to the
342 commissioner documentation which (A) demonstrates in financial
343 statements compiled by certified public accountants that the facility
344 and its direct or indirect owners have (i) on the date of the certificate of
345 need application and for five years preceding such date, net assets or
346 reserves equal to or greater than the projected operating revenues for
347 the facility in its first two years of operation or (ii) assets or other
348 indications of financial stability determined by the commissioner to be
349 sufficient to provide for the financial stability of the facility based on
350 its proposed financial structure and operations, (B) demonstrates in
351 financial statements compiled by certified public accountants that the
352 facility, on the date of the certificate of need application, has a
353 projected debt coverage ratio at ninety-five per cent occupancy of at
354 least one and twenty-five one-hundredths, (C) details the financial
355 operation and projected cash flow of the facility on the date of the
356 certificate of need application, to be updated every five years
357 thereafter, and demonstrates that fees payable by residents and the
358 assets, income and insurance coverage of residents, in combination
359 with other sources of facility funding, are sufficient to provide for the
360 expenses of life care services for the life of the residents to be made
361 available within a continuum of care which shall include the provision
362 of health services in the independent living units, and (D) provides
363 that any transfer of ownership of the facility to take place within a five-
364 year period from the date of approval of its certificate of need shall be
365 subject to the approval of the Commissioner of Social Services in
366 accordance with the provisions of section 17b-355; (3) a facility which
367 establishes to the satisfaction of the commissioner that it can provide

368 for the expenses of the continuum of care to be made available to
369 residents by complying with the provisions of chapter 319f and
370 demonstrating sufficient assets, income, financial reserves or long-term
371 care insurance to provide for such expenses and maintain financially
372 viable operation of the facility for a thirty-year period based on
373 generally accepted accounting practices and actuarial principles, which
374 demonstration (A) may include making available to prospective
375 residents long-term care insurance policies which are substantially
376 equivalent in value and coverage to policies precertified pursuant to
377 section 38a-475, (B) shall include establishing eligibility criteria and
378 screening each resident prior to admission and annually thereafter to
379 ensure that his assets, income and insurance coverage are sufficient in
380 combination with other sources of facility funding to cover such
381 expenses, (C) shall include entering into contracts with residents
382 concerning monthly or other periodic fees payable by residents for
383 services provided, and (D) allowing residents whose expenses are not
384 covered by insurance to pledge or transfer income, assets or proceeds
385 from the sale of assets in amounts sufficient to cover such expenses; (4)
386 a facility which demonstrates it will establish a contingency fund, prior
387 to becoming operational, in an initial amount of five hundred
388 thousand dollars which shall be increased in equal annual increments
389 to at least one million dollars by the start of the facility's sixth year of
390 operation and which shall be replenished within twelve months of any
391 expenditure, provided the amount to be replenished shall not exceed
392 two hundred fifty thousand dollars annually until one million dollars
393 is reached, to provide for the expenses of the continuum of care to be
394 made available to residents which may not be covered by residents'
395 assets, income or insurance, provided the commissioner may approve
396 the establishment of a contingency fund in a lesser amount upon the
397 application of a facility for which a lesser amount is appropriate based
398 on the size of the facility; and (5) a facility which is operated by
399 management with demonstrated experience and ability in the
400 operation of similar facilities. Notwithstanding the provisions of this
401 subsection, a facility may be deemed a continuing care facility which

402 guarantees life care for its residents if (A) the facility meets the criteria
403 set forth in subdivisions (2) to (5), inclusive, of this subsection, was
404 Medicaid certified prior to October 1, 1993, and has been deemed
405 qualified to enter into a continuing care contract under chapter 319hh
406 for at least two consecutive years prior to filing its certificate of need
407 application under this section, provided (i) no additional bed
408 approved pursuant to this section shall be Medicaid certified; (ii) no
409 patient in such a bed shall be involuntarily transferred to another bed
410 due to his eligibility for Medicaid and (iii) the facility shall pay the cost
411 of care for a patient in such a bed who is Medicaid eligible and does
412 not wish to be transferred to another bed or (B) the facility is operated
413 exclusively by and for a religious order which is committed to the care
414 and well-being of its members for the duration of their lives and whose
415 members are bound thereto by the profession of permanent vows. On
416 and after July 1, 1997, the Department of Social Services shall give
417 priority to a request for modification of a certificate of need from a
418 continuing care facility which guarantees life care for its residents
419 pursuant to the provisions of this subsection.

420 (c) For the purposes of this section and sections 17b-352 and 17b-
421 353, construction shall be deemed to have begun if the following have
422 occurred and the department has been so notified in writing within the
423 thirty days prior to the date by which construction is to begin: (1) All
424 necessary town, state and federal approvals required to begin
425 construction have been obtained, including all zoning and wetlands
426 approvals; (2) all necessary town and state permits required to begin
427 construction or site work have been obtained; (3) financing approval,
428 as defined in subsection (d) of this section, has been obtained; and (4)
429 construction of a structure approved in the certificate of need has
430 begun. For the purposes of this subsection, commencement of
431 construction of a structure shall include, at a minimum, completion of
432 a foundation. Notwithstanding the provisions of this subsection, upon
433 receipt of an application filed at least thirty days prior to the date by
434 which construction is to begin, the commissioner may deem

435 construction to have begun if: (A) An owner of a certificate of need has
436 fully complied with the provisions of subdivisions (1), (2) and (3) of
437 this subsection; (B) such owner submits clear and convincing evidence
438 that he has complied with the provisions of this subsection sufficiently
439 to demonstrate a high probability that construction shall be completed
440 in time to obtain licensure by the Department of Public Health on or
441 before the date required pursuant to subsection (a) of this section; (C)
442 construction of a structure cannot begin due to unforeseeable
443 circumstances beyond the control of the owner; and (D) at least ten per
444 cent of the approved total capital expenditure or two hundred fifty
445 thousand dollars, whichever is greater, has been expended.

446 (d) For the purposes of subsection (c) of this section, subject to the
447 provisions of subsection (e) of this section, financing shall be deemed
448 to have been obtained if the owner of the certificate of need receives a
449 commitment letter from a lender indicating an affirmative interest in
450 financing the project subject to reasonable and customary conditions,
451 including a final commitment from the lender's loan committee or
452 other entity responsible for approving loans. If a lender which has
453 issued a commitment letter subsequently refuses to finance the project,
454 the owner shall notify the department in writing within five business
455 days of the receipt of the refusal. The owner shall, if so requested by
456 the department, provide the commissioner with copies of all
457 communications between the owner and the lender concerning the
458 request for financing. The owner shall have one further opportunity to
459 obtain financing which shall be demonstrated by submitting another
460 commitment letter from a lender to the department within thirty days
461 of the owner's receipt of the refusal from the first lender.

462 (e) On and after March 1, 1993, financing shall be deemed to have
463 been obtained for the purposes of this section and sections 17b-352 and
464 17b-353 if the owner of the certificate of need has (1) received a final
465 commitment for financing in writing from a lender or (2) provided
466 evidence to the department that the owner has sufficient funds
467 available to construct the project without financing.

468 (f) Any decision of the Office of Health Care Access issued prior to
469 July 1, 1993, as to whether construction has begun or financing has
470 been obtained for nursing home beds approved by the office prior to
471 said date shall be deemed to be a decision of the Commissioner of
472 Social Services for the purposes of this section and sections 17b-352
473 and 17b-353.

474 (g) (1) A continuing care facility which guarantees life care for its
475 residents, as defined in subsection (b) of this section, (A) shall arrange
476 for a medical assessment to be conducted by an independent physician
477 or an access agency approved by the Office of Policy and Management
478 and the Department of Social Services as meeting the requirements for
479 such agency as defined by regulations adopted pursuant to subsection
480 (e) of section 17b-342, prior to the admission of any resident to the
481 nursing facility and shall document such assessment in the resident's
482 medical file and (B) may transfer or discharge a resident who has
483 intentionally transferred assets in a sum which will render the resident
484 unable to pay the cost of nursing facility care in accordance with the
485 contract between the resident and the facility.

486 (2) A continuing care facility which guarantees life care for its
487 residents, as defined in subsection (b) of this section, may, for the
488 seven-year period immediately subsequent to becoming operational,
489 accept nonresidents directly as nursing facility patients on a
490 contractual basis provided any such contract shall include, but not be
491 limited to, requiring the facility (A) to document that placement of the
492 patient in such facility is medically appropriate; (B) to apply to a
493 potential nonresident patient the financial eligibility criteria applied to
494 a potential resident of the facility pursuant to said subsection (b); and
495 (C) to at least annually screen each nonresident patient to ensure the
496 maintenance of assets, income and insurance sufficient to cover the
497 cost of at least forty-two months of nursing facility care. A facility may
498 transfer or discharge a nonresident patient upon the patient exhausting
499 assets sufficient to pay the costs of his care or upon the facility
500 determining the patient has intentionally transferred assets in a sum

501 which will render the patient unable to pay the costs of a total of forty-
502 two months of nursing facility care from the date of initial admission
503 to the nursing facility. Any such transfer or discharge shall be
504 conducted in accordance with section 19a-535. The commissioner may
505 grant one or more three-year extensions of the period during which a
506 facility may accept nonresident patients, provided the facility is in
507 compliance with the provisions of this section.

508 (h) Notwithstanding the provisions of subsection (a) of this section,
509 if an owner of an approved certificate of need for additional nursing
510 home beds has notified the Office of Health Care Access or the
511 Department of Social Services on or before September 30, 1993, of his
512 intention to utilize such beds for a continuing care facility which
513 guarantees life care for its residents in accordance with subsection (b)
514 of this section and has filed documentation with the Department of
515 Social Services on or before September 30, 1994, demonstrating the
516 requirements of said subsection (b) have been met, the certificate of
517 need shall not expire.

518 (i) The Commissioner of Social Services may waive or modify any
519 requirement of this section, except subdivision (1) of subsection (b)
520 which prohibits participation in the Medicaid program, to enable an
521 established continuing care facility registered pursuant to chapter
522 319hh prior to September 1, 1991, to add nursing home beds provided
523 the continuing care facility agrees to no longer admit nonresidents into
524 any of the facility's nursing home beds except for spouses of residents
525 of such facility and provided the addition of nursing home beds will
526 not have an adverse impact on the facility's financial stability, as
527 defined in subsection (b) of this section, and are located within a
528 structure constructed and licensed prior to July 1, 1992.]

529 (a) An applicant, prior to submitting a certificate of need
530 application, shall request, in writing, application forms and
531 instructions from the department. The request shall include: (1) The
532 name of the applicant or applicants; (2) a statement indicating whether

533 the application is for (A) a new, additional, expanded or replacement
534 facility or service, (B) a termination or reduction in a presently
535 authorized service or bed capacity, or (C) any new, additional or
536 terminated beds and their type; (3) the estimated capital cost; (4) the
537 town where the project is or will be located; and (5) a brief description
538 of the proposed project. Such request shall be deemed a letter of intent.
539 No certificate of need application shall be considered submitted to the
540 department unless a current letter of intent, specific to the proposal
541 and in accordance with the provisions of this subsection, has been on
542 file with the department for not less than ten business days. For
543 purposes of this subsection, "a current letter of intent" means a letter of
544 intent on file with the department for not more than one hundred
545 eighty days. A certificate of need application shall be deemed
546 withdrawn by the department if the applicant fails to respond to the
547 department's request for additional information within one hundred
548 eighty days of the date of the department's request. The Office of the
549 Long-Term Care Ombudsman shall be notified by the facility at the
550 same time as the letter of intent is submitted to the department.

551 (b) Any facility acting pursuant to subdivision (3) of subsection (b)
552 of section 17b-352, as amended by this act, shall provide written notice,
553 at the same time it submits its letter of intent, to all patients, guardians
554 or conservators, if any, or legally liable relatives or other responsible
555 parties, if known, and shall post such notice in a conspicuous location
556 at the facility. The notice shall state the following: (A) The projected
557 date the facility will be submitting its certificate of need application,
558 (B) that only the department has the authority to either grant, modify
559 or deny the application, (C) that the department has up to ninety days
560 to grant, modify or deny the certificate of need application, (D) a brief
561 description of the reason or reasons for submitting a certificate of need
562 application, (E) that no patient shall be involuntarily transferred or
563 discharged within or from a facility pursuant to state and federal law
564 because of the filing of the certificate of need application, (F) that all
565 patients have a right to appeal any proposed transfer or discharge, and

566 (G) the name, mailing address and telephone number of the Office of
567 the Long-Term Care Ombudsman and local legal aid office.

568 (c) The commissioner shall grant, modify or deny a certificate of
569 need application within ninety days of receipt thereof, except as
570 otherwise provided in this section. Upon the request of the applicant,
571 the review period may be extended for an additional fifteen days if the
572 department has requested additional information subsequent to the
573 commencement of the commissioner's review period. The director of
574 the office of certificate of need and rate setting may extend the review
575 period for a maximum of thirty days if the applicant has not filed in a
576 timely manner information deemed necessary by the department. The
577 applicant may request and shall receive a hearing in accordance with
578 section 4-177 if aggrieved by a decision of the commissioner made
579 pursuant to this section.

580 (d) In conducting activities pursuant to section 17b-352, as amended
581 by this act, except as provided for in subsection (e) of this section, the
582 Commissioner of Social Services or said commissioner's designee may
583 hold a public hearing on an application or on more than one
584 application, if such applications are of a similar nature with respect to
585 the request. The commissioner or the commissioner's designee shall
586 provide not less than two weeks' notice of any such public hearing to
587 the facility by first-class or electronic mail and to the public by
588 publication in a newspaper having a substantial circulation in the area
589 served by the facility. Such hearing shall be held at the discretion of the
590 commissioner in Hartford or in the area so served. If the hearing is
591 conducted by a designee of the commissioner, the designee shall
592 submit any findings and recommendations to the commissioner. The
593 commissioner shall grant, modify or deny such certificate of need
594 request within ninety days, except as provided for in this section.
595 Upon the request of the applicant, the review period may be extended
596 for an additional fifteen days if the commissioner or the
597 commissioner's designee has requested additional information
598 subsequent to the commencement of the review period. The

599 commissioner or the commissioner's designee may extend the review
600 period for a maximum of thirty days if the applicant has not filed in a
601 timely manner information deemed necessary by the commissioner or
602 the commissioner's designee.

603 (e) The Commissioner of Social Services or the commissioner's
604 designee shall hold a public hearing for the closure of a nursing facility
605 unless the occupancy is seventy-five per cent or less of licensed bed
606 capacity or the facility is a residential care home or a residential facility
607 for persons with intellectual disability licensed pursuant to section 17a-
608 277 and certified to participate in the Title XIX Medicaid program as an
609 intermediate care facility for individuals with intellectual disabilities.
610 The commissioner or the commissioner's designee shall hold a public
611 hearing, if required by this section, upon receipt of any letter of intent
612 submitted by a facility to the department. Such hearing shall be held at
613 the facility for which the letter of intent or certificate of need
614 application was submitted not later than thirty days after the date on
615 which such letter or application was received by the commissioner.
616 The facility shall submit a completed application not later than three
617 days prior to the public hearing. The commissioner or the
618 commissioner's designee shall provide both the facility and the public
619 with notice of the date of the hearing not less than fourteen days in
620 advance of such date. Notice to the facility shall be by first class or
621 electronic mail and notice to the public shall be by publication in a
622 newspaper having a substantial circulation in the area served by the
623 facility. The commissioner may impose a civil penalty of not more than
624 five thousand dollars on any facility that fails to comply with the
625 provisions of this subsection. Penalty payments received by the
626 commissioner pursuant to this subsection shall be deposited in the
627 special fund established by the department pursuant to subsection (c)
628 of section 17b-357 and used for the purposes specified in subsection (c)
629 of section 17b-357.

630 (f) The Commissioner of Social Services may conduct an expedited
631 review of a certificate of need application for the closure of or a

632 reduction in the licensed bed capacity of a residential care home or a
633 residential facility for persons with intellectual disability licensed
634 pursuant to section 17a-277 and certified to participate in the Title XIX
635 Medicaid program as an intermediate care facility for individuals with
636 intellectual disabilities.

637 (g) The commissioner shall conduct an expedited review and may
638 grant a nursing facility's certificate of need request to close the facility
639 without holding a public hearing if occupancy at the nursing facility is
640 seventy-five per cent or less of the facility's licensed bed capacity,
641 provided there are sufficient nursing facility beds in towns within a
642 fifteen-mile radius to accommodate residents.

643 [(j)] (h) The Commissioner of Social Services shall adopt regulations,
644 in accordance with chapter 54, to implement the provisions of this
645 section. [The commissioner shall implement the standards and
646 procedures of the Office of Health Care Access division of the
647 Department of Public Health concerning certificates of need
648 established pursuant to section 19a-643, as appropriate for the
649 purposes of this section, until the time final regulations are adopted in
650 accordance with said chapter 54.]

651 Sec. 4. Section 17b-354a of the general statutes is repealed and the
652 following is substituted in lieu thereof (*Effective July 1, 2014*):

653 [The Superior Court on application of the Commissioner of Social
654 Services or the Attorney General, may enforce, by appropriate decree
655 or process any provision of section 17b-352, 17b-353 or 17b-354,
656 respectively, or any act or any order of the commissioner rendered in
657 pursuance of any such provision.]

658 (a) A certificate of need shall be valid only for the project described
659 in the application. A certificate of need shall be valid for two years
660 from the date of issuance by the department except for a certificate of
661 need for capital improvements, which shall be valid for five years from
662 the date of issuance by the department. During the period of time that

663 such certificate is valid and the thirty-day period following the
664 expiration of the certificate, the holder of the certificate shall provide
665 the department with such information as the department may request
666 on the development of the project covered by the certificate.

667 (b) Upon request from a certificate holder, the department may
668 extend the duration of a certificate of need for such additional period
669 of time as the department determines is reasonably necessary to
670 expeditiously complete the project.

671 (c) In the event that the department determines that: (1)
672 Commencement, construction or other preparation has not been
673 substantially undertaken during a valid certificate of need period; or
674 (2) the certificate holder has not made a good-faith effort to complete
675 the project as approved, the department may withdraw, revoke or
676 rescind the certificate of need.

677 (d) For the purposes of this section, construction shall be deemed to
678 have begun if the following have occurred: (1) All necessary town,
679 state and federal approvals required to begin construction have been
680 obtained, including all zoning and wetlands approvals; and (2) all
681 necessary town and state permits required to begin construction or site
682 work have been obtained.

683 (e) Financing shall be deemed to have been obtained for the
684 purposes of this section if the owner of the certificate of need: (1)
685 Receives a commitment letter from a lender indicating an affirmative
686 interest in financing the project subject to reasonable and customary
687 conditions, including a final commitment from the lender's loan
688 committee or other entity responsible for approving loans, (2) received
689 a final commitment for financing in writing from a lender, or (3)
690 provided evidence to the department that the owner has sufficient
691 funds available to construct the project without financing.

692 (f) A certificate of need shall not be transferable or assignable nor
693 shall a project be transferred from a certificate holder to another

694 person.

695 Sec. 5. Section 17b-354b of the general statutes is repealed and the
696 following is substituted in lieu thereof (*Effective July 1, 2014*):

697 The Commissioner of Social Services may approve the relocation of
698 Medicaid certified nursing home beds from a licensed nursing home to
699 a continuing care facility registered with the Department of Social
700 Services in accordance with the provisions of section 17b-520 to 17b-
701 535, inclusive, and may approve Medicaid participation for any such
702 nursing home beds transferred to a continuing care facility as part of
703 the approval of any such relocation, provided the relocation of beds
704 complies with the requirements of subdivision (3) of subsection (a) of
705 section 17b-354, as amended by this act, and provided further that: (1)
706 [Beds are transferred and eliminated from existing four-bed rooms
707 licensed prior to July 1, 1992; (2) the] The Medicaid per diem rate does
708 not exceed the rate in place at the facility that is transferring beds, and
709 increases in such rate are limited annually thereafter to any rate
710 increase limits under section 17b-340; and [(3)] (2) any such nursing
711 home bed transfer is to a continuing care facility under the same
712 ownership or a subsidiary of the nursing home transferring such bed.

713 Sec. 6. Section 17b-354c of the general statutes is repealed and the
714 following is substituted in lieu thereof (*Effective July 1, 2014*):

715 (a) [Except for applications filed on or before May 1, 2001, which
716 shall not be subject to the restrictions set forth in this section, for the
717 period from July 1, 2001, to June 30, 2007, rest] Rest homes with
718 nursing supervision beds under common ownership with chronic and
719 convalescent nursing home beds in the same or an immediately
720 adjacent building may be converted to chronic and convalescent
721 nursing home beds in accordance with the provisions of section 17b-
722 352, as amended by this act, provided [that] such conversion shall not
723 result in an increase in cost to the state of more than twelve per cent of
724 the amount previously paid to the facility annually for both levels of

725 care. This limitation shall apply only to conversion of rest homes with
726 nursing supervision beds under common ownership with chronic and
727 convalescent nursing home beds or in the same or an immediately
728 adjacent building. Rest homes with nursing supervision beds in
729 freestanding facilities [and rest homes with nursing supervision beds
730 transferred to another licensed and Medicaid-certified nursing home]
731 may be converted to chronic and convalescent nursing home beds
732 pursuant to section 17b-352, [and subsection (a) of section 17b-354 as
733 applicable] as amended by this act.

734 (b) [No later than December 31, 2001, the commissioner shall
735 publish proposed regulations pursuant to subsections (a) to (e),
736 inclusive, of section 4-168 implementing this section.] The
737 Commissioner of Social Services shall adopt regulations, in accordance
738 with chapter 54, to implement the provisions of this section.

739 Sec. 7. Section 17b-355 of the general statutes is repealed and the
740 following is substituted in lieu thereof (*Effective July 1, 2014*):

741 [In determining whether a request submitted pursuant to sections
742 17b-352 to 17b-354, inclusive, will be granted, modified or denied, the
743 Commissioner of Social Services shall consider the following: The
744 relationship of the request to the state health plan, the financial
745 feasibility of the request and its impact on the applicant's rates and
746 financial condition, the contribution of the request to the quality,
747 accessibility and cost-effectiveness of health care delivery in the region,
748 whether there is clear public need for the request, the relationship of
749 any proposed change to the applicant's current utilization statistics, the
750 business interests of all owners, partners, associates, incorporators,
751 directors, sponsors, stockholders and operators and the personal
752 background of such persons, and any other factor which the
753 department deems relevant. Whenever the granting, modification or
754 denial of a request is inconsistent with the state health plan, a written
755 explanation of the reasons for the inconsistency shall be included in
756 the decision. In considering whether there is clear public need for any

757 request for additional nursing home beds associated with a continuing
758 care facility submitted pursuant to section 17b-354, the commissioner
759 shall only consider the need for beds for current and prospective
760 residents of the continuing care facility. In considering whether there is
761 clear public need for any request for the relocation of beds, the
762 commissioner shall consider whether there is a demonstrated bed need
763 in the towns within a fifteen-mile radius of the town in which the beds
764 are proposed to be located. Bed need shall be based on the recent
765 occupancy percentage of area nursing facilities and the projected bed
766 need for no more than five years into the future at ninety-seven and
767 one-half per cent occupancy using the latest official population
768 projections by town and age as published by the Office of Policy and
769 Management and the latest available state-wide nursing facility
770 utilization statistics by age cohort from the Department of Public
771 Health. The commissioner may also consider area specific utilization
772 and reductions in utilization rates to account for the increased use of
773 less institutional alternatives.] The Superior Court on application of the
774 Commissioner of Social Services or the Attorney General, may enforce,
775 by appropriate decree or process any provision of section 17b-352, as
776 amended by this act, 17b-353, as amended by this act, 17b-354, as
777 amended by this act, or 17b-354a, as amended by this act, respectively,
778 or any act or any order of the commissioner rendered in pursuance of
779 any such provision.

780 Sec. 8. Subsection (b) of section 17b-522 of the general statutes is
781 repealed and the following is substituted in lieu thereof (*Effective July*
782 *1, 2014*):

783 (b) Before the execution of a contract to provide continuing care, or
784 before the transfer of any money or other property to a provider by or
785 on behalf of a prospective resident, whichever shall occur first, the
786 provider shall deliver to the person with whom the contract is to be
787 entered into, or to that person's legal representative, a disclosure
788 statement. The text of the disclosure statement shall contain, to the
789 extent not clearly and completely set forth in the contract for

790 continuing care attached as an exhibit thereto, at least the following
791 information:

792 (1) The name and business address of the provider and a statement
793 of whether the provider is a partnership, corporation or other legal
794 entity;

795 (2) The names of the officers, directors, trustees, or managing and
796 general partners of the provider, the names of persons having a five
797 per cent or greater ownership interest in the provider, and a
798 description of each such person's occupation with the provider;

799 (3) A description of the business experience of the provider and of
800 the manager of the facility if the facility will be managed on a day-to-
801 day basis by an organization other than the provider, in the
802 administration of continuing-care contracts or in the administration of
803 similar contractual arrangements;

804 (4) A description of any matter in which the provider, any of the
805 persons described in subdivision (2) of this subsection, or the manager
806 has been convicted of a felony or pleaded nolo contendere to a felony
807 charge, or held liable or enjoined in a civil action by final judgment, if
808 the felony or civil action involved fraud, embezzlement, fraudulent
809 conversion or misappropriation of property; or is subject to a currently
810 effective injunction or restrictive or remedial order of a court of record,
811 within the past five years has had any state or federal license or permit
812 suspended or revoked as a result of an action brought by a
813 governmental agency or department, arising out of or relating to
814 business activity or health care, including, but not limited to, actions
815 affecting the operation of a foster care facility, nursing home,
816 retirement home, residential care home, or any facility subject to
817 sections 17b-520 to 17b-535, inclusive, or a similar statute in another
818 state or country;

819 (5) A statement as to whether or not the provider is, or is affiliated
820 with, a religious, charitable, nonprofit, or for-profit organization; the

821 extent of the affiliation, if any; the extent to which the affiliate
822 organization will be responsible for the financial and contractual
823 obligations of the provider; and the provision of the federal Internal
824 Revenue Code, if any, under which the provider or affiliate is exempt
825 from the payment of income tax;

826 (6) The location and a description of the physical property or
827 properties of the provider, existing or proposed; and, if proposed, the
828 estimated completion date or dates, whether or not construction has
829 begun, and the contingencies subject to which construction may be
830 deferred;

831 (7) The goods and services provided or proposed to be provided
832 without additional charge under the contract for continuing care
833 including the extent to which medical or nursing care or other health-
834 related benefits are furnished;

835 (8) The disposition of interest earned on entrance fees or other
836 deposits held in escrow;

837 (9) A description of the conditions under which the continuing-care
838 contract may be terminated, whether before or after occupancy, by the
839 provider or by the resident. In the case of termination by the provider,
840 a description of the manner and procedures by which a decision to
841 terminate is reached by the provider, including grounds for
842 termination, the participation of a resident's council or other group, if
843 any, in reaching such a decision, and any grievance, appeal or other
844 similar procedures available to a resident whose contract has been
845 terminated by the provider;

846 (10) A statement setting forth the rights of a surviving spouse who
847 is a resident of the facility and the effect of the continuing-care contract
848 on the rights of a surviving spouse who is not a resident of the facility,
849 in the event of the death of a resident, subject to any limitations
850 imposed upon such rights by statute or common law principles;

851 (11) A statement of the effect of a resident's marriage or remarriage
852 while in the facility on the terms of such resident's continuing-care
853 contract;

854 (12) Subject to the provisions of subsection (g) of this section, a
855 statement of the provider's policy regarding disposition of a resident's
856 personal property in the event of death, temporary or permanent
857 transfer to a nursing facility, or termination of the contract by the
858 provider;

859 (13) A statement that payment of an entrance fee or other transfer of
860 assets pursuant to a continuing-care contract may have significant tax
861 consequences and that any person considering such a payment or
862 transfer may wish to consult a qualified advisor;

863 (14) The provisions that have been made or will be made by the
864 provider for reserve funding and any other security to enable the
865 provider to perform fully its obligations under continuing-care
866 contracts, including, but not limited to, escrow accounts established in
867 compliance with sections 17b-524, as amended by this act, and 17b-525,
868 as amended by this act, trusts or reserve funds, together with the
869 manner in which such funds will be invested and the names and
870 experience of the persons making or who will make investment
871 decisions. Disclosure shall include a summary [of the information
872 contained in the five-year financial information filed with the
873 commissioner pursuant to section 17b-527; such summary shall set
874 forth] setting forth by year any anticipated excess of future liabilities
875 over future revenues and shall describe the manner in which the
876 provider plans to meet such liabilities;

877 (15) [Audited and certified financial] Financial statements of the
878 provider, including [(A) a balance sheet as of the end of the most
879 recent fiscal year, and (B) income statements] a balance sheet, income
880 statement and statement of cash flows of the provider audited by an
881 independent certified public accounting firm, for the three most recent

882 fiscal years of the provider or such shorter period of time as the
883 provider shall have been in existence;

884 (16) Subject to the provisions of subsection (g) of this section, if the
885 operation of the facility has not yet commenced, or if the construction
886 of the facility is to be completed in stages, a statement of the
887 anticipated source and application of the funds used or to be used in
888 the purchase or construction of the facility or each stage of the facility,
889 including:

890 (A) An estimate of such costs as financing expense, legal expense,
891 land costs, marketing costs, and other similar costs which the provider
892 expects to incur or become obligated for prior to the commencement of
893 operations of each stage of the facility;

894 (B) A description of any mortgage loan or any other financing
895 intended to be used for the financing of the facility or each stage of the
896 facility, including the anticipated terms and costs of such financing;

897 (C) An estimate of the total entrance fees to be received from or on
898 behalf of residents at or prior to commencement of operation of each
899 stage of the facility; and

900 (D) An estimate of the funds, if any, which are anticipated to be
901 necessary to fund start-up losses and provide reserve funds to assure
902 full performance of the obligations of the provider under continuing-
903 care contracts;

904 (17) Pro forma annual income and cash flow statements for the
905 facility for the next five fiscal years;

906 (18) A description of all entrance fees and periodic charges, if any,
907 required of residents and a record of past increases in such fees and
908 charges during the previous seven years;

909 (19) For each facility operated by the provider, the total actuarial
910 present value of prepaid healthcare obligations assumed by the

911 provider under continuing-care contracts as calculated on an
912 actuarially sound basis using reasonable assumptions for mortality
913 and morbidity;

914 (20) A statement that all materials required to be filed with the
915 department are on file, a brief description of such materials, and the
916 address of the department at which such materials may be reviewed;

917 (21) The cover page of the disclosure statement shall state, in a
918 prominent location and type face, the date of the disclosure statement
919 and that registration does not constitute approval, recommendation, or
920 endorsement by the department or state, nor does such registration
921 evidence the accuracy or completeness of the information set out in the
922 disclosure statement;

923 (22) If the construction of the facility is to be completed in stages, a
924 statement as to whether all services will be provided at the completion
925 of each stage and, if not, the services that will not be provided listed in
926 bold print.

927 Sec. 9. Subsection (a) of section 17b-524 of the general statutes is
928 repealed and the following is substituted in lieu thereof (*Effective July*
929 *1, 2014*):

930 (a) Prior to soliciting or entering into any contract for the provision
931 of continuing care, the provider shall establish with a bank or trust
932 company as an escrow agent, an entrance fee escrow pursuant to
933 which the provider shall deposit with the escrow agent, within
934 seventy-two hours of receipt by the provider, each entrance fee or
935 portion of an entrance fee received by the provider from or on behalf
936 of a resident prior to the date the resident is permitted to occupy a
937 living unit in the facility. [If the prospective resident, as defined in
938 section 17b-520, is a resident of this state at the time the continuing-
939 care contract is signed, the bank or trust company serving as escrow
940 agent for such fees received from such a resident shall have its
941 principal place of business in this state.] The entrance fee escrow shall

942 be subject to release as follows:

943 (1) If the entrance fee applies to a living unit that has been
944 previously occupied in the facility, the entrance fee shall be released to
945 the provider at the time the living unit becomes available for
946 occupancy by the new resident, or shall be returned to the resident or
947 the resident's personal representative under the conditions described
948 in section 17b-523, as amended by this act, if the escrow agent has
949 received written demand by registered or certified mail for return of
950 the entrance fee prior to the release thereof to the provider;

951 (2) If the entrance fee applies to a living unit which has not
952 previously been occupied by any resident, the entrance fee shall be
953 returned to the resident or the resident's legal representative under the
954 conditions described in section 17b-523, as amended by this act, if the
955 escrow agent receives written demand by registered or certified mail
956 for return of the entrance fee prior to release thereof to the provider, or
957 the entrance fee shall be released to the provider at the time all of the
958 following conditions have been met:

959 (A) The sum of the entrance fees received or receivable by the
960 provider pursuant to binding contracts for continuing care, plus the
961 anticipated proceeds of any first mortgage loan or other long-term
962 financing commitment, plus funds from other sources in the actual
963 possession of the provider, equals or exceeds the sum of seventy-five
964 per cent of the aggregate cost of constructing or purchasing, equipping
965 and furnishing the facility plus seventy-five per cent of the funds
966 estimated in the statement of anticipated source and application of
967 funds submitted by the provider as part of its disclosure statement to
968 be necessary to fund start-up losses of the facility plus seventy-five per
969 cent of the amount of the reserve fund escrow required to be
970 maintained by the provider pursuant to section 17b-525, as amended
971 by this act;

972 (B) A commitment has been received by the provider for any

973 permanent mortgage loan or other long-term financing described in
974 the statement of anticipated source and application of funds included
975 in the current disclosure statement on file pursuant to section 17b-522,
976 as amended by this act, and any conditions of the commitment prior to
977 disbursement of funds thereunder, other than completion of the
978 construction or closing of the purchase of the facility, have been
979 substantially satisfied; and

980 (C) If construction of the facility has not been substantially
981 completed, all governmental permits or approvals necessary prior to
982 the commencement of construction have been obtained; and a
983 maximum price contract has been entered into between the provider
984 and a general contractor responsible for construction of the facility; a
985 bond covering the faithful performance of the construction contract by
986 the general contractor and the payment of all obligations arising
987 thereunder has been issued by an insurer authorized to do business in
988 this state with the provider as obligee; a loan agreement has been
989 entered into by the provider for an interim construction loan in an
990 amount, when combined with the amount of entrance fees then held in
991 escrow under the provisions of this section plus the amount of funds
992 from other sources then in the actual possession of the provider, that
993 will equal or exceed the estimated cost of constructing, equipping and
994 furnishing the facility; not less than ten per cent of the amount of the
995 construction loan has been disbursed by the lender for physical
996 construction or site preparation work completed; and orders at firm
997 prices have been placed by the provider for not less than fifty per cent
998 in value, including installation charges if applicable, of items necessary
999 for equipping and furnishing the facility in accordance with the
1000 description set forth in the disclosure statement required by section
1001 17b-522, as amended by this act; or if construction or purchase of the
1002 facility has been substantially completed, an occupancy permit
1003 covering the living unit has been issued by the local government
1004 having authority to issue these permits.

1005 Sec. 10. Section 17b-526 of the general statutes is repealed and the

1006 following is substituted in lieu thereof (*Effective July 1, 2014*):

1007 [(a)] Construction of any facility or, if the construction of the facility
1008 is to be completed in stages, construction of any stage of the facility
1009 shall not begin until (1) fifty per cent of all the living units within the
1010 planned facility, or fifty per cent of any designated part or parts
1011 thereof determined by the commissioner [as evidencing financial
1012 feasibility in accordance with subdivision (2) of subsection (b) of this
1013 section,] have been presold, (2) a minimum deposit of [five per cent of
1014 the entrance fee per unit for all presold units or] ten thousand dollars
1015 per unit for all presold units [, whichever is less,] has been received by
1016 the provider, and (3) the thirty-day rescission period set forth in
1017 subdivision (1) of subsection (a) of section 17b-523 has expired.

1018 [(b) When the construction of a facility is to be completed in stages,
1019 construction of any stage shall not begin until (1) the financial
1020 feasibility of the designated part of the project to be constructed,
1021 maintained and operated as a facility prior to the construction,
1022 maintenance and operation of the remaining planned part or parts has
1023 been demonstrated to the commissioner by the filing of proof of
1024 committed construction financing or other documentation of financial
1025 feasibility deemed sufficient by the commissioner, and (2) the
1026 commissioner has issued a written notice stating that proof of
1027 committed construction financing or other documentation of financial
1028 feasibility deemed sufficient by the commissioner has been filed. The
1029 commissioner shall issue a written notice as to whether the proof or
1030 other documentation submitted is sufficient within twenty days of the
1031 filing of such proof or other documentation.

1032 (c) Upon receipt of a notice of the commissioner stating that proof of
1033 committed construction financing or other documentation of financial
1034 feasibility filed pursuant to subsection (b) of this section is deemed
1035 insufficient, the provider shall have thirty days from the date of the
1036 issuance of such notice to file a written request for a hearing in
1037 accordance with chapter 54. The final decision of the commissioner

1038 after a hearing shall be subject to appeal in accordance with section 4-
1039 183. Notwithstanding the provisions of subsection (f) of section 4-183,
1040 no stay of the final decision of the commissioner shall be granted
1041 pending the outcome of any appeal of such decision.]

1042 Sec. 11. Subsection (a) of section 17b-527 of the general statutes is
1043 repealed and the following is substituted in lieu thereof (*Effective July*
1044 *1, 2014*):

1045 (a) A provider operating a facility located in this state shall file with
1046 the department annually, in a form and manner prescribed by the
1047 commissioner, financial and actuarial information for each facility
1048 located in this state and operated by the provider or by a manager
1049 under contract to the provider. The commissioner shall prescribe the
1050 information to be filed which shall include but is not limited to the
1051 following: Financial statements including [certified current] balance
1052 sheets, and [certified] income statements and statements of cash flows
1053 of the provider audited by an independent certified public accounting
1054 firm, and pro forma annual income and cash flow statements for the
1055 next five years as provided in section 17b-522, as amended by this act,
1056 and such information as is necessary to assess the actuarial soundness
1057 thereof; the basis for amortization assumptions for the provider's
1058 capital costs; the facility's current rate schedule; a statement of source
1059 and application of funds for the five-year period beginning the year of
1060 initial filing pursuant to section 17b-521 or subsequent filing pursuant
1061 to section 17b-529; current and anticipated residential turnover rates;
1062 the average age of the residents for the next five years; healthcare
1063 utilization rates, including admission rates and days per one hundred
1064 residents by level of care; occupancy rates; the number of healthcare
1065 admissions per year; the days of care per year; and the number of
1066 permanent transfers. Financial and actuarial projections contained in
1067 such studies shall be determined on an actuarially sound basis using
1068 reasonable assumptions for mortality, morbidity and interest. Each
1069 provider operating a facility in this state shall make the information
1070 filed with the department pursuant to this subsection available to each

1071 such resident for viewing during regular business hours and, upon
1072 request, shall provide such resident with a copy of the most recent
1073 filing with the department. Each provider shall notify each resident, at
1074 least annually, of the right to view the filings and of the right to a copy
1075 of the most recent filing. The commissioner may adopt regulations in
1076 accordance with chapter 54 to prescribe financial and actuarial
1077 information to be filed pursuant to this subsection.

1078 Sec. 12. (NEW) (*Effective July 1, 2014*) A continuing care facility may
1079 accept nonresidents directly as nursing facility patients on a
1080 contractual basis provided any contract shall include, but not be
1081 limited to, requiring the facility to (1) document that placement of the
1082 patient in such facility is medically appropriate; (2) apply to a potential
1083 nonresident patient the financial eligibility criteria applied to a
1084 potential resident of the facility; and (3) at least annually, screen each
1085 nonresident patient to ensure the maintenance of assets, income and
1086 insurance sufficient to cover the cost of at least forty-two months of
1087 nursing facility care. A facility may transfer or discharge a nonresident
1088 patient upon the patient exhausting assets sufficient to pay the costs of
1089 the patient's care or upon the facility determining the patient has
1090 intentionally transferred assets in a sum which will render the patient
1091 unable to pay the costs of a total of forty-two months of nursing facility
1092 care from the date of initial admission to the nursing facility. Any such
1093 transfer or discharge shall be conducted in accordance with section
1094 19a-535. The commissioner may grant one or more three-year
1095 extensions of the period during which a facility may accept
1096 nonresident patients, provided the facility is in compliance with the
1097 provisions of this section.

1098 Sec. 13. Section 17b-528 of the general statutes is repealed and the
1099 following is substituted in lieu thereof (*Effective July 1, 2014*):

1100 The registration of a facility pursuant to section 17b-521 shall remain
1101 effective unless withdrawn by the provider or unless the provider fails
1102 to file the documents specified in this section within one hundred and

1103 fifty days following the end of the first fiscal year of the provider in
1104 which such registration is filed. The provider shall file a revised
1105 disclosure statement including financial statements for its most
1106 recently ended fiscal year as required in section 17b-527, as amended
1107 by this act, and its most recent entrance fees, occupancy charges and
1108 other charges as required in said section; and verification of the
1109 maintenance of escrow accounts as required pursuant to sections 17b-
1110 524, as amended by this act, and 17b-525, as amended by this act. The
1111 provider shall also file a narrative describing any material differences
1112 between the pro forma income and cash flow statements filed pursuant
1113 to section 17b-522, as amended by this act, and the actual results of
1114 operations during the most recently concluded fiscal year and
1115 describing any material differences between any estimates or
1116 projections made in the financial and actuarial information filed
1117 pursuant to section 17b-527, as amended by this act, and the actual
1118 results of operations during the most recently concluded fiscal year.
1119 The fee for filings subsequent to an initial filing shall be prescribed by
1120 the commissioner in an amount not to exceed one hundred dollars. A
1121 provider, may, upon payment of said filing fee, revise its previously
1122 filed disclosure statement at any time if, in the opinion of the provider,
1123 revision is necessary to prevent the disclosure statement from
1124 containing a material misstatement of fact or from omitting to state a
1125 material fact required to be stated therein. Only the most recently filed
1126 statements shall be deemed current for purposes of sections 17b-520 to
1127 17b-535, inclusive. The provider shall make any revised disclosure
1128 statement, whether filed pursuant to the requirements of this section or
1129 at the option of the provider, available at the facility for inspection by
1130 current residents of the facility during regular business hours.

1131 Sec. 14. Subdivision (3) of subsection (a) of section 17b-523 of the
1132 general statutes is repealed and the following is substituted in lieu
1133 thereof (*Effective July 1, 2014*):

1134 (3) That if construction of the facility has not yet begun, construction
1135 will not begin until a minimum number of living units, which shall not

1136 be less than one-half of the units in the facility or, if the construction is
1137 to be completed in stages, one-half of [the units evidencing financial
1138 feasibility in accordance with section 17b-526,] any designated part or
1139 parts thereof as determined by the commissioner have been presold,
1140 and a minimum deposit of five per cent of the entrance fee per unit for
1141 all presold units or ten thousand dollars per unit for all presold units,
1142 whichever is less, has been received by the provider. The requirements
1143 of this subdivision shall not apply to any continuing-care contract for
1144 the provision of care in a person's home.

1145 Sec. 15. Subsection (a) of section 17b-525 of the general statutes is
1146 repealed and the following is substituted in lieu thereof (*Effective July*
1147 *1, 2014*):

1148 (a) [Except as provided in section 17b-534, on] On and after the date
1149 any facility located in this state is first occupied by any resident, the
1150 provider shall establish and maintain on a current basis, in escrow
1151 with a bank, trust company, or other escrow agent having its principal
1152 place of business in this state, a portion of all entrance fees received by
1153 the provider in an aggregate amount sufficient to cover: (1) All
1154 principal and interest, rental or lease payments due during the next
1155 twelve months on account of any first mortgage loan or any other
1156 long-term financing of the facility; and (2) the total cost of operations
1157 of the facility for a one-month period, excluding debt service, rental or
1158 lease payments as described in subdivision (1) of this subsection and
1159 excluding capital expenditures. The escrow agent may release up to
1160 one-twelfth of the required principal balance of funds held in escrow
1161 pursuant to said subdivision not more than once during any calendar
1162 month, if the provider so requests in writing. The commissioner may
1163 authorize the escrow agent to release additional funds held in escrow
1164 pursuant to subdivisions (1) and (2) of this subsection, upon
1165 application by the provider setting forth the reasons for the requested
1166 release and a plan for replacing these funds within one year; the
1167 commissioner shall respond within fifteen business days. If any escrow
1168 funds so released are not replaced within one year the escrow agent

1169 shall so notify the commissioner. A provider shall promptly notify the
 1170 commissioner in the event such provider uses funds held in escrow
 1171 pursuant to subdivisions (1) and (2) of this subsection. Upon written
 1172 application by a provider, the commissioner may authorize a facility to
 1173 maintain a reserve escrow or escrows in an amount less than the
 1174 amounts set forth in this section, if the commissioner finds that the
 1175 contractual liabilities of the provider and the best interests of the
 1176 residents may be adequately protected by a reserve escrow or escrows
 1177 in a lesser amount.

1178 Sec. 16. Section 17b-534 of the general statutes is repealed. (*Effective*
 1179 *July 1, 2014*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2014</i>	17b-352
Sec. 2	<i>July 1, 2014</i>	17b-353
Sec. 3	<i>July 1, 2014</i>	17b-354
Sec. 4	<i>July 1, 2014</i>	17b-354a
Sec. 5	<i>July 1, 2014</i>	17b-354b
Sec. 6	<i>July 1, 2014</i>	17b-354c
Sec. 7	<i>July 1, 2014</i>	17b-355
Sec. 8	<i>July 1, 2014</i>	17b-522(b)
Sec. 9	<i>July 1, 2014</i>	17b-524(a)
Sec. 10	<i>July 1, 2014</i>	17b-526
Sec. 11	<i>July 1, 2014</i>	17b-527(a)
Sec. 12	<i>July 1, 2014</i>	New section
Sec. 13	<i>July 1, 2014</i>	17b-528
Sec. 14	<i>July 1, 2014</i>	17b-523(a)(3)
Sec. 15	<i>July 1, 2014</i>	17b-525(a)
Sec. 16	<i>July 1, 2014</i>	Repealer section

Statement of Purpose:

To update the certificate of need process for nursing home facilities with technical and substantive changes, including eliminating the certificate of need requirement for transfers of ownership.

[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.]