



General Assembly

Amendment

February Session, 2014

LCO No. 5422

HB0505105422SR0

Offered by:
SEN. FASANO, 34th Dist.

To: Subst. House Bill No. 5051 File No. 729 Cal. No. 537

"AN ACT IMPROVING TRANSPARENCY OF NURSING HOME OPERATIONS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2014*) (a) As used in this section:

4 (1) "Department" means the Department of Social Services.

5 (2) "Desk review" means a process involving a review of cost reports
6 pursuant to section 17-311-53 of the department's regulations.

7 (3) "Cost report" means the Annual Report of Long-Term Care
8 Facility filed with the department pursuant to section 17-311-50 of the
9 department's regulations.

10 (4) "Significant" means of an amount so large that it can have a
11 material impact based on the size of the organization.

12 (5) "Operating losses" means the excess of expenses over revenues,

13 exclusive of depreciation and amortization expenses.

14 (6) "Negative current working capital" means the excess of current
15 liabilities over current assets plus investments, exclusive of liabilities,
16 the repayment of which are guaranteed.

17 (7) "Current" means, in the context of negative current working
18 capital, liabilities payable within twelve months and assets that are
19 cash and are expected to be converted to cash within twelve months.

20 (8) "Going concern" means a business that is expected to function
21 without the threat of insolvency or liquidation within the next twelve
22 months.

23 (9) "Related party" means companies related to such nursing homes
24 through immediate family, common ownership and control or
25 business association with any of the majority owners, operators or
26 officials of the facility.

27 (b) Auditors under contract with the department may, during the
28 department's desk review of cost reports filed by each licensed nursing
29 facility, determine whether a nursing home has experienced significant
30 operating losses and significant negative current working capital for
31 the last two years. If auditors make such a determination, the
32 determination shall constitute probable cause that the nursing home
33 may not be able to continue operating as a going concern. Additional
34 evidence constituting such probable cause may include irregularities in
35 general accounting principles undercapitalization, and deviation from
36 industry standards. For purposes of this subsection, auditors shall not
37 extend their analysis beyond the last two years, the latest year being
38 the year associated with the cost report last filed by the facility.

39 (c) If the auditors do find evidence as described in subsection (b) of
40 this section, the auditors may request additional information from the
41 facility's management that in the opinion of the facility's management
42 resolves such concerns.

43 (d) If, in the auditor's judgment, the information described in
44 subsection (c) of this section is sufficient to mitigate doubt about the
45 facility's ability to operate as a going concern, the auditor shall not seek
46 additional information.

47 (e) If, in the auditor's judgment, the information described in
48 subsection (c) of this section is not sufficient to mitigate doubt about
49 the facility's ability to operate as a going concern, the auditor shall
50 request, and, if available, the facility shall provide the latest finalized
51 profit and loss statements of each related party to which the facility
52 paid fifty thousand dollars or more for goods, services and supplies
53 during the facility's most recent fiscal year. The auditors shall issue a
54 report to the department that summarizes their findings.

55 Sec. 2. Section 17b-339 of the 2014 supplement to the general statutes
56 is repealed and the following is substituted in lieu thereof (*Effective*
57 *from passage*):

58 (a) There is established a Nursing Home Financial Advisory
59 Committee to examine the financial solvency of nursing homes on an
60 ongoing basis and to support the Departments of Social Services and
61 Public Health in their mission to provide oversight to the nursing
62 home industry on issues concerning the financial solvency of and
63 quality of care provided by nursing homes. The committee shall
64 convene not later than August 1, 2014, and consist of the following
65 members: The Commissioner of Social Services, or [his] the
66 commissioner's designee; the Commissioner of Public Health, or [his]
67 the commissioner's designee; the Secretary of the Office of Policy and
68 Management, or [his] the secretary's designee; the executive director of
69 the Connecticut Health and Education Facilities Authority, or [his] the
70 director's designee; the [president of LeadingAge Connecticut, Inc. or
71 the president's designee; and the executive director of the Connecticut
72 Association of Health Care Facilities, or the executive director's
73 designee] Long-Term Care Ombudsman and two members appointed
74 by the Governor, one of whom shall be a representative of not-for-
75 profit nursing homes and one of whom shall be a representative of for-

76 profit nursing homes. In addition, the Labor Commissioner may
77 appoint a nonvoting member to the committee. The Commissioner of
78 Social Services [or his designee] and the Commissioner of Public
79 Health, or [his designee] their designees shall be the chairpersons of
80 the committee.

81 (b) The committee [, upon receipt of a report relative to the financial
82 solvency of and quality of care provided by nursing homes in the state,
83 shall recommend appropriate action for improving the financial
84 condition of any nursing home that is in financial distress] shall (1)
85 evaluate any information and data available, including, but not limited
86 to, (A) quality of care, (B) acuity, (C) census, and (D) staffing levels of
87 nursing homes operating in the state to assess the overall
88 infrastructure and projected needs of such homes, and (2) recommend
89 appropriate action consistent with the goals, strategies and long-term
90 care needs set forth in the strategic plan developed pursuant to
91 subsection (c) of section 17b-369 to the Commissioner of Social Services
92 and the Commissioner of Public Health. The Commissioner of Social
93 Services shall submit quarterly reports to the committee concerning
94 pending nursing home requests for interim rate increases. Such reports
95 shall, without identifying any requesting facility by name, list the
96 amount of each increase requested, the reason for the request and the
97 rate that will result if the request is granted.

98 (c) Not later than January 1, [2010] 2015, and annually thereafter, the
99 committee shall submit a report on its activities to the joint standing
100 committees of the General Assembly having cognizance of matters
101 relating to aging, appropriations and the budgets of state agencies,
102 human services and public health, in accordance with the provisions of
103 section 11-4a.

104 (d) Not later than [January 1, 2010] October 1, 2014, and quarterly
105 thereafter, the committee shall meet with the chairpersons and ranking
106 members of the joint standing committees of the General Assembly
107 having cognizance of matters relating to appropriations and the
108 budgets of state agencies, human services and public health [, and the

109 Long-Term Care Ombudsman] to discuss activities of the committee
 110 relating to the financial solvency of and quality of care provided by
 111 nursing homes.

112 Sec. 3. (NEW) (*Effective from passage*) Upon the request of the
 113 Department of Social Services, any licensed nursing facility that
 114 receives funding in accordance with section 17b-340 of the general
 115 statutes, that (1) is placed in receivership pursuant to sections 19a-541
 116 to 19a-549a, inclusive, of the general statutes, (2) has filed a petition for
 117 relief under the United States Bankruptcy Code, or (3) has submitted a
 118 request to close the facility pursuant to section 17b-352 of the general
 119 statutes, shall provide a profit and loss statement for any related party
 120 that receives fifty thousand dollars or more a year for goods, fees and
 121 services. For purposes of this section, a "related party" includes
 122 companies related to such nursing homes through immediate family,
 123 common ownership and control, or business association with any of
 124 the majority owners, operators or officials of the facility."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2014</i>	New section
Sec. 2	<i>from passage</i>	17b-339
Sec. 3	<i>from passage</i>	New section