



House of Representatives

General Assembly

File No. 183

January Session, 2015

Substitute House Bill No. 6894

House of Representatives, March 23, 2015

The Committee on Aging reported through REP. SERRA of the 33rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE SAFEGUARDING OF FUNDS FOR RESIDENTS OF CERTAIN LONG-TERM CARE FACILITIES.

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

1 Section 1. Section 19a-551 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2015*):

3 Each nursing home facility and residential care home shall: (1) On
4 or before the admission of each [patient] resident provide such
5 [patient] resident or such [patient's] resident's legally liable relative,
6 guardian or conservator with a written statement explaining such
7 [patient's] resident's rights regarding the [patient's] resident's personal
8 funds and listing the charges that may be deducted from such funds.
9 Such statement shall explain that the nursing home facility or
10 residential care home shall on and after October 1, 1992, pay interest at
11 a rate not less than four per cent per annum and on and after October
12 1, 1994, pay interest at a rate not less than five and one-half per cent
13 per annum on any security deposit or other advance payment required
14 of such [patient] resident prior to admission to the nursing home

15 facility or residential care home. In the case of [patients] residents
16 receiving benefits under Title XVIII or XIX of the federal Social
17 Security Act the statement shall include a list of charges not covered by
18 said titles and not covered by the basic per diem rate provided by said
19 titles. Upon delivery of such statement the person in charge of the
20 nursing home facility or residential care home shall obtain a signed
21 receipt acknowledging such delivery; (2) upon written consent or
22 request of the [patient] resident or the [patient's] resident's legally
23 liable relative, guardian or conservator, manage such [patient's]
24 resident's personal funds, provided such consent by a [patient]
25 resident shall not be effective unless cosigned by the [patient's]
26 resident's legally liable relative or guardian if such [patient] resident
27 has been determined by a physician to be mentally incapable of
28 understanding and no conservator has been appointed. As manager of
29 such personal funds the nursing home facility or residential care home
30 shall: (A) Either maintain separate accounts for each [patient] resident
31 or maintain an aggregate trust account for [patients'] residents' funds
32 to prevent commingling the personal funds of [patients] residents with
33 the funds of such facility or residential care home. Such facility or
34 residential care home shall notify in writing each [patient] resident
35 receiving Medicaid assistance or such [patient's] resident's legally
36 liable relative, guardian or conservator when the amount in the
37 [patient's] resident's account reaches two hundred dollars less than the
38 dollar amount determined under the Medicaid program as the
39 maximum for eligibility under the program and advise the [patient]
40 resident or such [patient's] resident's legally liable relative, guardian or
41 conservator that if the amount in the account plus the value of the
42 [patient's] resident's other nonexempt resources reaches the maximum
43 the [patient] resident may lose his or her Medicaid eligibility; (B)
44 obtain signed receipts for each expenditure from each [patient's]
45 resident's personal funds; (C) maintain an individual itemized record
46 of income and expenditures for each [patient] resident, including
47 quarterly accountings; and (D) permit the [patient] resident or the
48 [patient's] resident's legally liable relative, guardian or conservator,
49 and the regional long-term care ombudsman, and representatives from

50 the Departments of Social Services and Public Health, access to such
 51 record; and (3) (A) refund any overpayment or deposit from a former
 52 [patient] resident or such [patient's] resident's legally liable relative,
 53 guardian or conservator not later than thirty days after the [patient's]
 54 resident's discharge and (B) refund any deposit from an individual
 55 planning to be admitted to such facility or residential care home not
 56 later than thirty days after receipt of written notification that the
 57 individual is no longer planning to be admitted. A refund issued after
 58 thirty days shall include interest at a rate of ten per cent per annum.
 59 For the purposes of this section "deposit" shall include liquidated
 60 damages under any contract for pending admission.

61 Sec. 2. Section 19a-552 of the general statutes is repealed and the
 62 following is substituted in lieu thereof (*Effective July 1, 2015*):

63 (a) Any person who violates any provision of section 19a-551 shall
 64 be guilty of a class A misdemeanor.

65 (b) Any [patient] resident of a nursing home or residential care
 66 home or [his] such resident's legally liable relative, guardian or
 67 conservator may bring an action in the Superior Court for any
 68 violation of section 19a-551, as amended by this act. Any nursing home
 69 facility or residential care home determined by the court to be in
 70 violation of any provision of said section shall be liable to the injured
 71 party for treble damages.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	19a-551
Sec. 2	<i>July 1, 2015</i>	19a-552

AGE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill is not anticipated to result in a fiscal impact to the state or municipalities. The bill extends to residential care homes (RCHs) the statutory requirements for nursing homes, regarding the management of residents' personal funds. Similar regulations already exist for RCHs with regards to residents' personal funds, which remain unchanged by the bill.

In addition, the bill extends the penalty for failure to comply with the management guidelines outlined in the bill to residential care homes and is not anticipated to result in a fiscal impact. There have been no convictions or fines collected under the current statute for nursing homes for the past five years.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 6894*****AN ACT CONCERNING THE SAFEGUARDING OF FUNDS FOR RESIDENTS OF CERTAIN LONG-TERM CARE FACILITIES.*****SUMMARY:**

This bill extends to residential care homes (RCHs) statutory requirements for nursing homes regarding the management of residents' personal funds. It establishes (1) notification and account management procedures and (2) penalties for failure to comply.

Existing Department of Social Services (DSS) regulations establish similar procedures and requirements for managing RCH residents' personal funds. Presumably, RCHs would continue to follow these regulations in areas left unaddressed by the bill (e.g., submitting to DSS annual statements on residents' accounts and accounting procedures when an RCH transfers ownership) (Conn. Agencies Regs., § 17-109a).

By law, an RCH is an establishment that (1) furnishes, in single or multiple facilities, food and shelter to two or more people unrelated to the proprietor and (2) provides services that meet a need beyond the basic provisions of food, shelter, and laundry (CGS § 19a-521).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2015

NOTIFICATIONS***Written Statement Prior to Admission***

The bill requires RCHs to provide to a resident or the resident's legally liable relative, guardian, or conservator (hereafter referred to as "responsible party") a written statement:

1. explaining the resident's rights regarding his or her personal funds;
2. listing the charges that may be deducted from the fund;
3. explaining that the RCH will pay at least 5.5% interest annually on any required security deposit or advanced payment the resident submits before admission to the home; and
4. for Medicaid or Medicare beneficiaries, listing the charges not covered by their federal benefits.

The RCH must do this on or before a resident's admission to the home. It must also obtain written acknowledgement that the resident received the statement.

Medicaid Beneficiaries

The bill requires RCHs to provide written notification to a Medicaid beneficiary if his or her personal account reaches \$200 less than the Medicaid asset limit which is currently \$1,600 for an individual. The notice must advise the resident, or his or her legal representative, that the resident may become ineligible for Medicaid if his or her combined assets exceed the legal limit.

ACCOUNT MANAGEMENT

Consent

Under the bill, a resident or his or her responsible party can ask, and provide written consent for, the RCH to manage the resident's personal funds. If a physician determines the resident is not mentally capable of understanding and has no conservator, the resident and his or her responsible party must cosign the consent.

Accounting

The RCH must prevent comingling of the resident's funds with those of the RCH by establishing (1) a separate account for each resident or (2) an aggregate trust account.

The RCH must obtain signed receipts for each expenditure from each resident's personal funds and maintain an individualized, itemized record of their income and expenditures, including quarterly accountings. It must allow access to this record by the (1) resident or resident's responsible party, (2) regional long-term care ombudsman, and (3) Public Health and Social Services departments.

Refunds

The bill requires an RCH to refund any overpayment or deposit made by a former resident, or his or her responsible party, within 30 days after the resident is discharged from the home. The RCH must also refund a deposit made by a prospective resident within 30 days after the individual notifies the home in writing that he or she no longer plans to be admitted.

PENALTIES

The bill extends the law's penalties for mismanaging a nursing home resident's personal funds to mismanaging a RCH resident's personal funds. Under the bill, violators may be guilty of a class A misdemeanor, punishable by up to one year imprisonment, a fine up to \$2,000, or both. A resident, or his or her responsible party, may bring an action in Superior Court to recover damages. An RCH that the court finds in violation of the bill's provisions is liable for treble damages.

COMMITTEE ACTION

Aging Committee

Joint Favorable Substitute

Yea 13 Nay 0 (03/05/2015)