



General Assembly

Substitute Bill No. 209

February Session, 2016

* SB00209PH 032216 *

**AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S
RECOMMENDATIONS REGARDING THE PROTECTION OF
RESIDENTS IN HEALTH CARE INSTITUTIONS.**

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

1 Section 1. Section 19a-524 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 If, upon review, investigation or inspection pursuant to section 19a-
4 498, the Commissioner of Public Health determines that a nursing
5 home facility or residential care home has violated any provision of
6 section 17a-411, 19a-491a to 19a-491c, inclusive, 19a-493a, 19a-521 to
7 19a-529, inclusive, 19a-531 to 19a-551, inclusive, or 19a-553 to 19a-555,
8 inclusive, or any regulation in the Public Health Code or regulation
9 relating to licensure or the Fire Safety Code relating to the operation or
10 maintenance of a nursing home facility or residential care home, which
11 violation has been classified in accordance with section 19a-527, as
12 amended by this act, [he or she shall immediately] the commissioner
13 may issue or cause to be issued a citation to the licensee of such
14 nursing home facility or residential care home. Governmental
15 immunity shall not be a defense to any citation issued or civil penalty
16 imposed pursuant to sections 19a-524 to 19a-528, inclusive. Each such
17 citation shall be in writing, shall provide notice of the nature and scope
18 of the alleged violation or violations and shall be sent by certified mail

19 to the licensee at the address of the nursing home facility or residential
20 care home in issue. A copy of such citation shall also be sent to the
21 licensed administrator at the address of the nursing home facility or
22 residential care home.

23 Sec. 2. Section 19a-525 of the general statutes is repealed and the
24 following is substituted in lieu thereof (*Effective October 1, 2016*):

25 (a) The administrator of the nursing home facility or residential care
26 home, or [his or her] the administrator's designee, shall, [within three
27 days, excluding Saturdays, Sundays and holidays, of] not later than
28 five business days after receipt of the citation by the licensee, notify the
29 commissioner if the licensee contests the citation. If the administrator
30 fails to so notify the commissioner [within such three-day period] not
31 later than five business days after such receipt, the citation shall be
32 deemed a final order of the commissioner, effective upon the
33 expiration of said period.

34 (b) If any administrator of a nursing home facility or residential care
35 home, or [his or her] the administrator's designee, notifies the
36 commissioner that the licensee contests the citation, the commissioner
37 shall provide [within five days of such notice, excluding Saturdays,
38 Sundays and holidays,] an informal conference between the licensee
39 and the commissioner or the commissioner's designee. Not later than
40 five business days after the conclusion of the informal conference, the
41 commissioner shall notify the licensee of the commissioner's
42 conclusions resulting from the informal conference. If the licensee [and
43 commissioner fail to reach an agreement at such conference, the]
44 disagrees with the commissioner's conclusions, the licensee shall notify
45 the commissioner in writing and the commissioner shall set the matter
46 down for a hearing as a contested case in accordance with chapter 54. [,
47 not more than five nor less than three days after such conference, with
48 notice of the date of such hearing to the administrator not less than
49 two days before such hearing, provided the minimum time
50 requirements may be waived by agreement. The commissioner shall,
51 not later than three days, excluding Saturdays, Sundays and holidays,]

52 The commissioner shall, after the conclusion of the informal conference
53 if an agreement is reached at, or as a result of, such conference, or after
54 the hearing, issue a final order, based on findings of fact, affirming,
55 modifying or vacating the citation.

56 Sec. 3. Section 19a-527 of the general statutes is repealed and the
57 following is substituted in lieu thereof (*Effective October 1, 2016*):

58 Citations issued pursuant to section 19a-524, as amended by this act,
59 for violations of statutory or regulatory requirements shall be classified
60 according to the nature of the violation and shall state such
61 classification and the amount of the civil penalty to be imposed on the
62 face thereof. The Commissioner of Public Health shall, by regulation in
63 accordance with chapter 54, classify violations as follows:

64 [(a)] (1) Class A violations are conditions that the Commissioner of
65 Public Health determines present an immediate danger of death or
66 serious harm to any patient in the nursing home facility or residential
67 care home. For each class A violation, a civil penalty of not more than
68 [five] ten thousand dollars may be imposed;

69 [(b)] (2) Class B violations are conditions that the Commissioner of
70 Public Health determines present a probability of death or serious
71 harm in the reasonably foreseeable future to any patient in the nursing
72 home facility or residential care home, but that he or she does not find
73 constitute a class A violation. For each [such] class B violation, a civil
74 penalty of not more than [three] five thousand dollars may be
75 imposed.

76 Sec. 4. Subsection (a) of section 19a-494 of the general statutes is
77 repealed and the following is substituted in lieu thereof (*Effective*
78 *October 1, 2016*):

79 (a) The Commissioner of Public Health, after a hearing held in
80 accordance with the provisions of chapter 54, may take any of the
81 following actions, singly or in combination, in any case in which the
82 commissioner finds that there has been a substantial failure to comply

83 with the requirements established under this chapter, the Public
 84 Health Code or licensing regulations:

- 85 (1) Revoke a license or certificate;
- 86 (2) Suspend a license or certificate;
- 87 (3) Censure a licensee or certificate holder;
- 88 (4) Issue a letter of reprimand to a licensee or certificate holder;
- 89 (5) Place a licensee or certificate holder on probationary status and
 90 require him to report regularly to the department on the matters which
 91 are the basis of the probation;
- 92 (6) Restrict the acquisition of other facilities for a period of time set
 93 by the commissioner;
- 94 (7) Issue an order compelling compliance with applicable statutes or
 95 regulations of the department; [or]
- 96 (8) Impose a directed plan of correction; or
- 97 (9) Appoint temporary management for a facility in accordance with
 98 the provisions of 42 CFR 488.415, as amended from time to time, for a
 99 period of time to be determined by the commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	19a-524
Sec. 2	<i>October 1, 2016</i>	19a-525
Sec. 3	<i>October 1, 2016</i>	19a-527
Sec. 4	<i>October 1, 2016</i>	19a-494(a)

Statement of Legislative Commissioners:

In Section 2(a), "[within such three-day] after such five-day period," was changed to "[within such three-day period] not later than five business days after such receipt" and in Section 2(b), "his or her designee" was changed to "[his or her] the administrator's designee",

for clarity and internal consistency; and in Section 3(2), "Class B violation" was changed to "class B violation" for internal consistency and consistency with standard drafting conventions.

PH *Joint Favorable Subst.*