



House of Representatives

General Assembly

File No. 463

January Session, 2019

Substitute House Bill No. 7164

House of Representatives, April 8, 2019

The Committee on Human Services reported through REP. ABERCROMBIE of the 83rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET
RECOMMENDATIONS FOR HUMAN SERVICES.***

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

1 Section 1. Subsection (b) of section 17b-104 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2019*):

4 (b) On July 1, 2007, and annually thereafter, the commissioner shall
5 increase the payment standards over those of the previous fiscal year
6 under the temporary family assistance program and the state-
7 administered general assistance program by the percentage increase, if
8 any, in the most recent calendar year average in the consumer price
9 index for urban consumers over the average for the previous calendar
10 year, provided the annual increase, if any, shall not exceed five per
11 cent, except that the payment standards for the fiscal years ending June
12 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2016, June
13 30, 2017, June 30, 2018, [and] June 30, 2019, June 30, 2020, and June 30,

14 2021, shall not be increased.

15 Sec. 2. Subsection (a) of section 17b-106 of the general statutes is
16 repealed and the following is substituted in lieu thereof (*Effective July*
17 *1, 2019*):

18 (a) On July 1, 1989, and annually thereafter, the commissioner shall
19 increase the adult payment standards over those of the previous fiscal
20 year for the state supplement to the federal Supplemental Security
21 Income Program by the percentage increase, if any, in the most recent
22 calendar year average in the consumer price index for urban
23 consumers over the average for the previous calendar year, provided
24 the annual increase, if any, shall not exceed five per cent, except that
25 the adult payment standards for the fiscal years ending June 30, 1993,
26 June 30, 1994, June 30, 1995, June 30, 1996, June 30, 1997, June 30, 1998,
27 June 30, 1999, June 30, 2000, June 30, 2001, June 30, 2002, June 30, 2003,
28 June 30, 2004, June 30, 2005, June 30, 2006, June 30, 2007, June 30, 2008,
29 June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013,
30 June 30, 2016, June 30, 2017, June 30, 2018, [and] June 30, 2019, June 30,
31 2020, and June 30, 2021, shall not be increased. Effective October 1,
32 1991, the coverage of excess utility costs for recipients of the state
33 supplement to the federal Supplemental Security Income Program is
34 eliminated. Notwithstanding the provisions of this section, the
35 commissioner may increase the personal needs allowance component
36 of the adult payment standard as necessary to meet federal
37 maintenance of effort requirements.

38 Sec. 3. Subsection (j) of section 17b-340 of the general statutes is
39 repealed and the following is substituted in lieu thereof (*Effective July*
40 *1, 2019*):

41 (j) Notwithstanding the provisions of this section, state rates of
42 payment for the fiscal years ending June 30, 2018, [and] June 30, 2019,
43 June 30, 2020, and June 30, 2021, for residential care homes, community
44 living arrangements and community companion homes that receive
45 the flat rate for residential services under section 17-311-54 of the
46 regulations of Connecticut state agencies shall be set in accordance

47 with section [43 of public act 17-2 of the June special session] 5 of this
48 act.

49 Sec. 4. Section 17b-244 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective July 1, 2019*):

51 (a) The room and board component of the rates to be paid by the
52 state to private facilities and facilities operated by regional education
53 service centers which are licensed to provide residential care pursuant
54 to section 17a-227, but not certified to participate in the Title XIX
55 Medicaid program as intermediate care facilities for individuals with
56 intellectual disabilities, shall be determined annually by the
57 Commissioner of Social Services, except that rates effective April 30,
58 1989, shall remain in effect through October 31, 1989. Any facility with
59 real property other than land placed in service prior to July 1, 1991,
60 shall, for the fiscal year ending June 30, 1995, receive a rate of return on
61 real property equal to the average of the rates of return applied to real
62 property other than land placed in service for the five years preceding
63 July 1, 1993. For the fiscal year ending June 30, 1996, and any
64 succeeding fiscal year, the rate of return on real property for property
65 items shall be revised every five years. The commissioner shall, upon
66 submission of a request by such facility, allow actual debt service,
67 comprised of principal and interest, on the loan or loans in lieu of
68 property costs allowed pursuant to section 17-313b-5 of the regulations
69 of Connecticut state agencies, whether actual debt service is higher or
70 lower than such allowed property costs, provided such debt service
71 terms and amounts are reasonable in relation to the useful life and the
72 base value of the property. In the case of facilities financed through the
73 Connecticut Housing Finance Authority, the commissioner shall allow
74 actual debt service, comprised of principal, interest and a reasonable
75 repair and replacement reserve on the loan or loans in lieu of property
76 costs allowed pursuant to section 17-313b-5 of the regulations of
77 Connecticut state agencies, whether actual debt service is higher or
78 lower than such allowed property costs, provided such debt service
79 terms and amounts are determined by the commissioner at the time
80 the loan is entered into to be reasonable in relation to the useful life

81 and base value of the property. The commissioner may allow fees
82 associated with mortgage refinancing provided such refinancing will
83 result in state reimbursement savings, after comparing costs over the
84 terms of the existing proposed loans. For the fiscal year ending June 30,
85 1992, the inflation factor used to determine rates shall be one-half of
86 the gross national product percentage increase for the period between
87 the midpoint of the cost year through the midpoint of the rate year. For
88 fiscal year ending June 30, 1993, the inflation factor used to determine
89 rates shall be two-thirds of the gross national product percentage
90 increase from the midpoint of the cost year to the midpoint of the rate
91 year. For the fiscal years ending June 30, 1996, and June 30, 1997, no
92 inflation factor shall be applied in determining rates. The
93 Commissioner of Social Services shall prescribe uniform forms on
94 which such facilities shall report their costs. Such rates shall be
95 determined on the basis of a reasonable payment for necessary
96 services. Any increase in grants, gifts, fund-raising or endowment
97 income used for the payment of operating costs by a private facility in
98 the fiscal year ending June 30, 1992, shall be excluded by the
99 commissioner from the income of the facility in determining the rates
100 to be paid to the facility for the fiscal year ending June 30, 1993,
101 provided any operating costs funded by such increase shall not
102 obligate the state to increase expenditures in subsequent fiscal years.
103 Nothing contained in this section shall authorize a payment by the
104 state to any such facility in excess of the charges made by the facility
105 for comparable services to the general public. The service component
106 of the rates to be paid by the state to private facilities and facilities
107 operated by regional education service centers which are licensed to
108 provide residential care pursuant to section 17a-227, but not certified
109 to participate in the Title XIX Medicaid programs as intermediate care
110 facilities for individuals with intellectual disabilities, shall be
111 determined annually by the Commissioner of Developmental Services
112 in accordance with section 17b-244a. For the fiscal year ending June 30,
113 2008, no facility shall receive a rate that is more than two per cent
114 greater than the rate in effect for the facility on June 30, 2007, except
115 any facility that would have been issued a lower rate effective July 1,

116 2007, due to interim rate status or agreement with the department,
117 shall be issued such lower rate effective July 1, 2007. For the fiscal year
118 ending June 30, 2009, no facility shall receive a rate that is more than
119 two per cent greater than the rate in effect for the facility on June 30,
120 2008, except any facility that would have been issued a lower rate
121 effective July 1, 2008, due to interim rate status or agreement with the
122 department, shall be issued such lower rate effective July 1, 2008. For
123 the fiscal years ending June 30, 2010, and June 30, 2011, rates in effect
124 for the period ending June 30, 2009, shall remain in effect until June 30,
125 2011, except that (1) the rate paid to a facility may be higher than the
126 rate paid to the facility for the period ending June 30, 2009, if a capital
127 improvement required by the Commissioner of Developmental
128 Services for the health or safety of the residents was made to the
129 facility during the fiscal years ending June 30, 2010, or June 30, 2011,
130 and (2) any facility that would have been issued a lower rate for the
131 fiscal year ending June 30, 2010, or June 30, 2011, due to interim rate
132 status or agreement with the department, shall be issued such lower
133 rate. For the fiscal year ending June 30, 2012, rates in effect for the
134 period ending June 30, 2011, shall remain in effect until June 30, 2012,
135 except that (A) the rate paid to a facility may be higher than the rate
136 paid to the facility for the period ending June 30, 2011, if a capital
137 improvement required by the Commissioner of Developmental
138 Services for the health or safety of the residents was made to the
139 facility during the fiscal year ending June 30, 2012, and (B) any facility
140 that would have been issued a lower rate for the fiscal year ending
141 June 30, 2012, due to interim rate status or agreement with the
142 department, shall be issued such lower rate. Any facility that has a
143 significant decrease in land and building costs shall receive a reduced
144 rate to reflect such decrease in land and building costs. The rate paid to
145 a facility may be increased if a capital improvement approved by the
146 Department of Developmental Services, in consultation with the
147 Department of Social Services, for the health or safety of the residents
148 was made to the facility during the fiscal year ending June 30, 2014, or
149 June 30, 2015, only to the extent such increases are within available
150 appropriations. For the fiscal years ending June 30, 2016, and June 30,

151 2017, rates shall not exceed those in effect for the period ending June
152 30, 2015, except the rate paid to a facility may be higher than the rate
153 paid to the facility for the period ending June 30, 2015, if a capital
154 improvement approved by the Department of Developmental Services,
155 in consultation with the Department of Social Services, for the health
156 or safety of the residents was made to the facility during the fiscal year
157 ending June 30, 2016, or June 30, 2017, to the extent such rate increases
158 are within available appropriations. For the fiscal years ending June 30,
159 2016, and June 30, 2017, and each succeeding fiscal year, any facility
160 that would have been issued a lower rate, due to interim rate status, a
161 change in allowable fair rent or agreement with the department, shall
162 be issued such lower rate. For the fiscal years ending June 30, 2018, and
163 June 30, 2019, rates shall not exceed those in effect for the period
164 ending June 30, 2017, except the rate paid to a facility may be higher
165 than the rate paid to the facility for the period ending June 30, 2017, if a
166 capital improvement approved by the Department of Developmental
167 Services, in consultation with the Department of Social Services, for the
168 health or safety of the residents was made to the facility during the
169 fiscal year ending June 30, 2018, or June 30, 2019, to the extent such rate
170 increases are within available appropriations. For the fiscal years
171 ending June 30, 2020, and June 30, 2021, rates shall not exceed those in
172 effect for the fiscal year ending June 30, 2019, except the rate paid to a
173 facility may be higher than the rate paid to the facility for the fiscal
174 year ending June 30, 2019, if a capital improvement approved by the
175 Department of Developmental Services, in consultation with the
176 Department of Social Services, for the health or safety of the residents
177 was made to the facility during the fiscal year ending June 30, 2020, or
178 June 30, 2021, to the extent such rate increases are within available
179 appropriations.

180 (b) Notwithstanding the provisions of subsection (a) of this section,
181 state rates of payment for the fiscal years ending June 30, 2018, [and]
182 June 30, 2019, June 30, 2020, and June 30, 2021, for residential care
183 homes, community living arrangements and community companion
184 homes that receive the flat rate for residential services under section
185 17-311-54 of the regulations of Connecticut state agencies shall be set in

186 accordance with section [43 of public act 17-2 of the June special
187 session] 5 of this act.

188 (c) The Commissioner of Social Services and the Commissioner of
189 Developmental Services shall adopt regulations in accordance with the
190 provisions of chapter 54 to implement the provisions of this section.

191 Sec. 5. (*Effective July 1, 2019*) Notwithstanding subsection (a) of
192 section 17b-244 of the general statutes, as amended by this act, and
193 subsections (a) to (i), inclusive, of section 17b-340 of the general
194 statutes, or any other provision of the general statutes, or regulation
195 adopted thereunder, the state rates of payments in effect for the fiscal
196 year ending June 30, 2016, for residential care homes, community
197 living arrangements and community companion homes that receive
198 the flat rate for residential services under section 17-311-54 of the
199 regulations of Connecticut state agencies shall remain in effect until
200 June 30, 2021.

201 Sec. 6. Subdivision (1) of subsection (h) of section 17b-340 of the
202 general statutes is repealed and the following is substituted in lieu
203 thereof (*Effective July 1, 2019*):

204 (h) (1) For the fiscal year ending June 30, 1993, any residential care
205 home with an operating cost component of its rate in excess of one
206 hundred thirty per cent of the median of operating cost components of
207 rates in effect January 1, 1992, shall not receive an operating cost
208 component increase. For the fiscal year ending June 30, 1993, any
209 residential care home with an operating cost component of its rate that
210 is less than one hundred thirty per cent of the median of operating cost
211 components of rates in effect January 1, 1992, shall have an allowance
212 for real wage growth equal to sixty-five per cent of the increase
213 determined in accordance with subsection (q) of section 17-311-52 of
214 the regulations of Connecticut state agencies, provided such operating
215 cost component shall not exceed one hundred thirty per cent of the
216 median of operating cost components in effect January 1, 1992.
217 Beginning with the fiscal year ending June 30, 1993, for the purpose of
218 determining allowable fair rent, a residential care home with allowable

219 fair rent less than the twenty-fifth percentile of the state-wide
220 allowable fair rent shall be reimbursed as having allowable fair rent
221 equal to the twenty-fifth percentile of the state-wide allowable fair
222 rent. Beginning with the fiscal year ending June 30, 1997, a residential
223 care home with allowable fair rent less than three dollars and ten cents
224 per day shall be reimbursed as having allowable fair rent equal to
225 three dollars and ten cents per day. Property additions placed in
226 service during the cost year ending September 30, 1996, or any
227 succeeding cost year shall receive a fair rent allowance for such
228 additions as an addition to three dollars and ten cents per day if the
229 fair rent for the facility for property placed in service prior to
230 September 30, 1995, is less than or equal to three dollars and ten cents
231 per day. Beginning with the fiscal year ending June 30, 2016, a
232 residential care home shall be reimbursed the greater of the allowable
233 accumulated fair rent reimbursement associated with real property
234 additions and land as calculated on a per day basis or three dollars and
235 ten cents per day if the allowable reimbursement associated with real
236 property additions and land is less than three dollars and ten cents per
237 day. For the fiscal year ending June 30, 1996, and any succeeding fiscal
238 year, the allowance for real wage growth, as determined in accordance
239 with subsection (q) of section 17-311-52 of the regulations of
240 Connecticut state agencies, shall not be applied. For the fiscal year
241 ending June 30, 1996, and any succeeding fiscal year, the inflation
242 adjustment made in accordance with subsection (p) of section 17-311-
243 52 of the regulations of Connecticut state agencies shall not be applied
244 to real property costs. Beginning with the fiscal year ending June 30,
245 1997, minimum allowable patient days for rate computation purposes
246 for a residential care home with twenty-five beds or less shall be
247 eighty-five per cent of licensed capacity. Beginning with the fiscal year
248 ending June 30, 2002, for the purposes of determining the allowable
249 salary of an administrator of a residential care home with sixty beds or
250 less the department shall revise the allowable base salary to thirty-
251 seven thousand dollars to be annually inflated thereafter in accordance
252 with section 17-311-52 of the regulations of Connecticut state agencies.
253 The rates for the fiscal year ending June 30, 2002, shall be based upon

254 the increased allowable salary of an administrator, regardless of
255 whether such amount was expended in the 2000 cost report period
256 upon which the rates are based. Beginning with the fiscal year ending
257 June 30, 2000, and until the fiscal year ending June 30, 2009, inclusive,
258 the inflation adjustment for rates made in accordance with subsection
259 (p) of section 17-311-52 of the regulations of Connecticut state agencies
260 shall be increased by two per cent, and beginning with the fiscal year
261 ending June 30, 2002, the inflation adjustment for rates made in
262 accordance with subsection (c) of said section shall be increased by one
263 per cent. Beginning with the fiscal year ending June 30, 1999, for the
264 purpose of determining the allowable salary of a related party, the
265 department shall revise the maximum salary to twenty-seven
266 thousand eight hundred fifty-six dollars to be annually inflated
267 thereafter in accordance with section 17-311-52 of the regulations of
268 Connecticut state agencies and beginning with the fiscal year ending
269 June 30, 2001, such allowable salary shall be computed on an hourly
270 basis and the maximum number of hours allowed for a related party
271 other than the proprietor shall be increased from forty hours to forty-
272 eight hours per work week. For the fiscal year ending June 30, 2005,
273 each facility shall receive a rate that is two and one-quarter per cent
274 more than the rate the facility received in the prior fiscal year, except
275 any facility that would have been issued a lower rate effective July 1,
276 2004, than for the fiscal year ending June 30, 2004, due to interim rate
277 status or agreement with the department shall be issued such lower
278 rate effective July 1, 2004. Effective upon receipt of all the necessary
279 federal approvals to secure federal financial participation matching
280 funds associated with the rate increase provided in subdivision (4) of
281 subsection (f) of this section, but in no event earlier than October 1,
282 2005, and provided the user fee imposed under section 17b-320 is
283 required to be collected, each facility shall receive a rate that is
284 determined in accordance with applicable law and subject to
285 appropriations, except any facility that would have been issued a
286 lower rate effective October 1, 2005, than for the fiscal year ending June
287 30, 2005, due to interim rate status or agreement with the department,
288 shall be issued such lower rate effective October 1, 2005. Such rate

289 increase shall remain in effect unless: (A) The federal financial
290 participation matching funds associated with the rate increase are no
291 longer available; or (B) the user fee created pursuant to section 17b-320
292 is not in effect. For the fiscal year ending June 30, 2007, rates in effect
293 for the period ending June 30, 2006, shall remain in effect until
294 September 30, 2006, except any facility that would have been issued a
295 lower rate effective July 1, 2006, than for the fiscal year ending June 30,
296 2006, due to interim rate status or agreement with the department,
297 shall be issued such lower rate effective July 1, 2006. Effective October
298 1, 2006, no facility shall receive a rate that is more than four per cent
299 greater than the rate in effect for the facility on September 30, 2006,
300 except for any facility that would have been issued a lower rate
301 effective October 1, 2006, due to interim rate status or agreement with
302 the department, shall be issued such lower rate effective October 1,
303 2006. For the fiscal years ending June 30, 2010, and June 30, 2011, rates
304 in effect for the period ending June 30, 2009, shall remain in effect until
305 June 30, 2011, except any facility that would have been issued a lower
306 rate for the fiscal year ending June 30, 2010, or the fiscal year ending
307 June 30, 2011, due to interim rate status or agreement with the
308 department, shall be issued such lower rate, except (i) any facility that
309 would have been issued a lower rate for the fiscal year ending June 30,
310 2010, or the fiscal year ending June 30, 2011, due to interim rate status
311 or agreement with the Commissioner of Social Services shall be issued
312 such lower rate; and (ii) the commissioner may increase a facility's rate
313 for reasonable costs associated with such facility's compliance with the
314 provisions of section 19a-495a concerning the administration of
315 medication by unlicensed personnel. For the fiscal year ending June 30,
316 2012, rates in effect for the period ending June 30, 2011, shall remain in
317 effect until June 30, 2012, except that (I) any facility that would have
318 been issued a lower rate for the fiscal year ending June 30, 2012, due to
319 interim rate status or agreement with the Commissioner of Social
320 Services shall be issued such lower rate; and (II) the commissioner may
321 increase a facility's rate for reasonable costs associated with such
322 facility's compliance with the provisions of section 19a-495a
323 concerning the administration of medication by unlicensed personnel.

324 For the fiscal year ending June 30, 2013, the Commissioner of Social
325 Services may, within available appropriations, provide a rate increase
326 to a residential care home. Any facility that would have been issued a
327 lower rate for the fiscal year ending June 30, 2013, due to interim rate
328 status or agreement with the Commissioner of Social Services shall be
329 issued such lower rate. For the fiscal years ending June 30, 2012, and
330 June 30, 2013, the Commissioner of Social Services may provide fair
331 rent increases to any facility that has undergone a material change in
332 circumstances related to fair rent and has an approved certificate of
333 need pursuant to section 17b-352, as amended by this act, 17b-353, as
334 amended by this act, 17b-354 or 17b-355. For the fiscal years ending
335 June 30, 2014, and June 30, 2015, for those facilities that have a
336 calculated rate greater than the rate in effect for the fiscal year ending
337 June 30, 2013, the commissioner may increase facility rates based upon
338 available appropriations up to a stop gain as determined by the
339 commissioner. No facility shall be issued a rate that is lower than the
340 rate in effect on June 30, 2013, except that any facility that would have
341 been issued a lower rate for the fiscal year ending June 30, 2014, or the
342 fiscal year ending June 30, 2015, due to interim rate status or
343 agreement with the commissioner, shall be issued such lower rate. For
344 the fiscal year ending June 30, 2014, and each fiscal year thereafter, a
345 residential care home shall receive a rate increase for any capital
346 improvement made during the fiscal year for the health and safety of
347 residents and approved by the Department of Social Services,
348 provided such rate increase is within available appropriations. For the
349 fiscal year ending June 30, 2015, and each succeeding fiscal year
350 thereafter, costs of less than ten thousand dollars that are incurred by a
351 facility and are associated with any land, building or nonmovable
352 equipment repair or improvement that are reported in the cost year
353 used to establish the facility's rate shall not be capitalized for a period
354 of more than five years for rate-setting purposes. For the fiscal year
355 ending June 30, 2015, subject to available appropriations, the
356 commissioner may, at the commissioner's discretion: Increase the
357 inflation cost limitation under subsection (c) of section 17-311-52 of the
358 regulations of Connecticut state agencies, provided such inflation

359 allowance factor does not exceed a maximum of five per cent; establish
360 a minimum rate of return applied to real property of five per cent
361 inclusive of assets placed in service during cost year 2013; waive the
362 standard rate of return under subsection (f) of section 17-311-52 of the
363 regulations of Connecticut state agencies for ownership changes or
364 health and safety improvements that exceed one hundred thousand
365 dollars and that are required under a consent order from the
366 Department of Public Health; and waive the rate of return adjustment
367 under subsection (f) of section 17-311-52 of the regulations of
368 Connecticut state agencies to avoid financial hardship. For the fiscal
369 years ending June 30, 2016, and June 30, 2017, rates shall not exceed
370 those in effect for the period ending June 30, 2015, except the
371 commissioner may, in the commissioner's discretion and within
372 available appropriations, provide pro rata fair rent increases to
373 facilities which have documented fair rent additions placed in service
374 in cost report years ending September 30, 2014, and September 30,
375 2015, that are not otherwise included in rates issued. For the fiscal
376 years ending June 30, 2016, and June 30, 2017, and each succeeding
377 fiscal year, any facility that would have been issued a lower rate, due
378 to interim rate status, a change in allowable fair rent or agreement with
379 the department, shall be issued such lower rate. For the fiscal year
380 ending June 30, 2018, rates shall not exceed those in effect for the
381 period ending June 30, 2017, except the commissioner may, in the
382 commissioner's discretion and within available appropriations,
383 provide pro rata fair rent increases to facilities which have
384 documented fair rent additions placed in service in the cost report year
385 ending September 30, 2016, that are not otherwise included in rates
386 issued. For the fiscal year ending June 30, 2019, rates shall not exceed
387 those in effect for the period ending June 30, 2018, except the
388 commissioner may, in the commissioner's discretion and within
389 available appropriations, provide pro rata fair rent increases to
390 facilities which have documented fair rent additions placed in service
391 in the cost report year ending September 30, 2017, that are not
392 otherwise included in rates issued. For the fiscal year ending June 30,
393 2020, rates shall not exceed those in effect for the fiscal year ending

394 June 30, 2019, except the commissioner may, in the commissioner's
395 discretion and within available appropriations, provide pro rata fair
396 rent increases to facilities which have documented fair rent additions
397 placed in service in the cost report year ending September 30, 2018,
398 that are not otherwise included in rates issued. For the fiscal year
399 ending June 30, 2021, rates shall not exceed those in effect for the fiscal
400 year ending June 30, 2020, except the commissioner may, in the
401 commissioner's discretion and within available appropriations,
402 provide pro rata fair rent increases to facilities which have
403 documented fair rent additions placed in service in the cost report year
404 ending September 30, 2019, that are not otherwise included in rates
405 issued.

406 Sec. 7. Subsection (g) of section 17b-340 of the general statutes is
407 repealed and the following is substituted in lieu thereof (*Effective July*
408 *1, 2019*):

409 (g) For the fiscal year ending June 30, 1993, any intermediate care
410 facility for individuals with intellectual disabilities with an operating
411 cost component of its rate in excess of one hundred forty per cent of
412 the median of operating cost components of rates in effect January 1,
413 1992, shall not receive an operating cost component increase. For the
414 fiscal year ending June 30, 1993, any intermediate care facility for
415 individuals with intellectual disabilities with an operating cost
416 component of its rate that is less than one hundred forty per cent of the
417 median of operating cost components of rates in effect January 1, 1992,
418 shall have an allowance for real wage growth equal to thirty per cent
419 of the increase determined in accordance with subsection (q) of section
420 17-311-52 of the regulations of Connecticut state agencies, provided
421 such operating cost component shall not exceed one hundred forty per
422 cent of the median of operating cost components in effect January 1,
423 1992. Any facility with real property other than land placed in service
424 prior to October 1, 1991, shall, for the fiscal year ending June 30, 1995,
425 receive a rate of return on real property equal to the average of the
426 rates of return applied to real property other than land placed in
427 service for the five years preceding October 1, 1993. For the fiscal year

428 ending June 30, 1996, and any succeeding fiscal year, the rate of return
429 on real property for property items shall be revised every five years.
430 The commissioner shall, upon submission of a request, allow actual
431 debt service, comprised of principal and interest, in excess of property
432 costs allowed pursuant to section 17-311-52 of the regulations of
433 Connecticut state agencies, provided such debt service terms and
434 amounts are reasonable in relation to the useful life and the base value
435 of the property. For the fiscal year ending June 30, 1995, and any
436 succeeding fiscal year, the inflation adjustment made in accordance
437 with subsection (p) of section 17-311-52 of the regulations of
438 Connecticut state agencies shall not be applied to real property costs.
439 For the fiscal year ending June 30, 1996, and any succeeding fiscal year,
440 the allowance for real wage growth, as determined in accordance with
441 subsection (q) of section 17-311-52 of the regulations of Connecticut
442 state agencies, shall not be applied. For the fiscal year ending June 30,
443 1996, and any succeeding fiscal year, no rate shall exceed three
444 hundred seventy-five dollars per day unless the commissioner, in
445 consultation with the Commissioner of Developmental Services,
446 determines after a review of program and management costs, that a
447 rate in excess of this amount is necessary for care and treatment of
448 facility residents. For the fiscal year ending June 30, 2002, rate period,
449 the Commissioner of Social Services shall increase the inflation
450 adjustment for rates made in accordance with subsection (p) of section
451 17-311-52 of the regulations of Connecticut state agencies to update
452 allowable fiscal year 2000 costs to include a three and one-half per cent
453 inflation factor. For the fiscal year ending June 30, 2003, rate period, the
454 commissioner shall increase the inflation adjustment for rates made in
455 accordance with subsection (p) of section 17-311-52 of the regulations
456 of Connecticut state agencies to update allowable fiscal year 2001 costs
457 to include a one and one-half per cent inflation factor, except that such
458 increase shall be effective November 1, 2002, and such facility rate in
459 effect for the fiscal year ending June 30, 2002, shall be paid for services
460 provided until October 31, 2002, except any facility that would have
461 been issued a lower rate effective July 1, 2002, than for the fiscal year
462 ending June 30, 2002, due to interim rate status or agreement with the

463 department shall be issued such lower rate effective July 1, 2002, and
464 have such rate updated effective November 1, 2002, in accordance with
465 applicable statutes and regulations. For the fiscal year ending June 30,
466 2004, rates in effect for the period ending June 30, 2003, shall remain in
467 effect, except any facility that would have been issued a lower rate
468 effective July 1, 2003, than for the fiscal year ending June 30, 2003, due
469 to interim rate status or agreement with the department shall be issued
470 such lower rate effective July 1, 2003. For the fiscal year ending June
471 30, 2005, rates in effect for the period ending June 30, 2004, shall
472 remain in effect until September 30, 2004. Effective October 1, 2004,
473 each facility shall receive a rate that is five per cent greater than the
474 rate in effect September 30, 2004. Effective upon receipt of all the
475 necessary federal approvals to secure federal financial participation
476 matching funds associated with the rate increase provided in
477 subdivision (4) of subsection (f) of this section, but in no event earlier
478 than October 1, 2005, and provided the user fee imposed under section
479 17b-320 is required to be collected, each facility shall receive a rate that
480 is four per cent more than the rate the facility received in the prior
481 fiscal year, except any facility that would have been issued a lower rate
482 effective October 1, 2005, than for the fiscal year ending June 30, 2005,
483 due to interim rate status or agreement with the department, shall be
484 issued such lower rate effective October 1, 2005. Such rate increase
485 shall remain in effect unless: (1) The federal financial participation
486 matching funds associated with the rate increase are no longer
487 available; or (2) the user fee created pursuant to section 17b-320 is not
488 in effect. For the fiscal year ending June 30, 2007, rates in effect for the
489 period ending June 30, 2006, shall remain in effect until September 30,
490 2006, except any facility that would have been issued a lower rate
491 effective July 1, 2006, than for the fiscal year ending June 30, 2006, due
492 to interim rate status or agreement with the department, shall be
493 issued such lower rate effective July 1, 2006. Effective October 1, 2006,
494 no facility shall receive a rate that is more than three per cent greater
495 than the rate in effect for the facility on September 30, 2006, except any
496 facility that would have been issued a lower rate effective October 1,
497 2006, due to interim rate status or agreement with the department,

498 shall be issued such lower rate effective October 1, 2006. For the fiscal
499 year ending June 30, 2008, each facility shall receive a rate that is two
500 and nine-tenths per cent greater than the rate in effect for the period
501 ending June 30, 2007, except any facility that would have been issued a
502 lower rate effective July 1, 2007, than for the rate period ending June
503 30, 2007, due to interim rate status, or agreement with the department,
504 shall be issued such lower rate effective July 1, 2007. For the fiscal year
505 ending June 30, 2009, rates in effect for the period ending June 30, 2008,
506 shall remain in effect until June 30, 2009, except any facility that would
507 have been issued a lower rate for the fiscal year ending June 30, 2009,
508 due to interim rate status or agreement with the department, shall be
509 issued such lower rate. For the fiscal years ending June 30, 2010, and
510 June 30, 2011, rates in effect for the period ending June 30, 2009, shall
511 remain in effect until June 30, 2011, except any facility that would have
512 been issued a lower rate for the fiscal year ending June 30, 2010, or the
513 fiscal year ending June 30, 2011, due to interim rate status or
514 agreement with the department, shall be issued such lower rate. For
515 the fiscal year ending June 30, 2012, rates in effect for the period
516 ending June 30, 2011, shall remain in effect until June 30, 2012, except
517 any facility that would have been issued a lower rate for the fiscal year
518 ending June 30, 2012, due to interim rate status or agreement with the
519 department, shall be issued such lower rate. For the fiscal years ending
520 June 30, 2014, and June 30, 2015, rates shall not exceed those in effect
521 for the period ending June 30, 2013, except the rate paid to a facility
522 may be higher than the rate paid to the facility for the period ending
523 June 30, 2013, if a capital improvement approved by the Department of
524 Developmental Services, in consultation with the Department of Social
525 Services, for the health or safety of the residents was made to the
526 facility during the fiscal year ending June 30, 2014, or June 30, 2015, to
527 the extent such rate increases are within available appropriations. Any
528 facility that would have been issued a lower rate for the fiscal year
529 ending June 30, 2014, or the fiscal year ending June 30, 2015, due to
530 interim rate status or agreement with the department, shall be issued
531 such lower rate. For the fiscal years ending June 30, 2016, and June 30,
532 2017, rates shall not exceed those in effect for the period ending June

533 30, 2015, except the rate paid to a facility may be higher than the rate
534 paid to the facility for the period ending June 30, 2015, if a capital
535 improvement approved by the Department of Developmental Services,
536 in consultation with the Department of Social Services, for the health
537 or safety of the residents was made to the facility during the fiscal year
538 ending June 30, 2016, or June 30, 2017, to the extent such rate increases
539 are within available appropriations. For the fiscal years ending June 30,
540 2016, and June 30, 2017, and each succeeding fiscal year, any facility
541 that would have been issued a lower rate, due to interim rate status, a
542 change in allowable fair rent or agreement with the department, shall
543 be issued such lower rate. For the fiscal years ending June 30, 2018, and
544 June 30, 2019, rates shall not exceed those in effect for the period
545 ending June 30, 2017, except the rate paid to a facility may be higher
546 than the rate paid to the facility for the period ending June 30, 2017, if a
547 capital improvement approved by the Department of Developmental
548 Services, in consultation with the Department of Social Services, for the
549 health or safety of the residents was made to the facility during the
550 fiscal year ending June 30, 2018, or June 30, 2019, only to the extent
551 such rate increases are within available appropriations. For the fiscal
552 years ending June 30, 2020, and June 30, 2021, rates shall not exceed
553 those in effect for the fiscal year ending June 30, 2019, except the rate
554 paid to a facility may be higher than the rate paid to the facility for the
555 fiscal year ending June 30, 2019, if a capital improvement approved by
556 the Department of Developmental Services, in consultation with the
557 Department of Social Services, for the health or safety of the residents
558 was made to the facility during the fiscal year ending June 30, 2020, or
559 June 30, 2021, only to the extent such rate increases are within available
560 appropriations. Any facility that has a significant decrease in land and
561 building costs shall receive a reduced rate to reflect such decrease in
562 land and building costs. For the fiscal years ending June 30, 2012, June
563 30, 2013, June 30, 2014, June 30, 2015, June 30, 2016, June 30, 2017, June
564 30, 2018, [and] June 30, 2019, June 30, 2020, and June 30, 2021, the
565 Commissioner of Social Services may provide fair rent increases to any
566 facility that has undergone a material change in circumstances related
567 to fair rent and has an approved certificate of need pursuant to section

568 17b-352, as amended by this act, 17b-353, as amended by this act, 17b-
569 354 or 17b-355. Notwithstanding the provisions of this section, the
570 Commissioner of Social Services may, within available appropriations,
571 increase or decrease rates issued to intermediate care facilities for
572 individuals with intellectual disabilities to reflect a reduction in
573 available appropriations as provided in subsection (a) of this section.
574 For the fiscal years ending June 30, 2014, and June 30, 2015, the
575 commissioner shall not consider rebasing in determining rates.

576 Sec. 8. Subdivision (4) of subsection (f) of section 17b-340 of the
577 general statutes is repealed and the following is substituted in lieu
578 thereof (*Effective July 1, 2019*):

579 (4) For the fiscal year ending June 30, 1992, (A) no facility shall
580 receive a rate that is less than the rate it received for the rate year
581 ending June 30, 1991; (B) no facility whose rate, if determined pursuant
582 to this subsection, would exceed one hundred twenty per cent of the
583 state-wide median rate, as determined pursuant to this subsection,
584 shall receive a rate which is five and one-half per cent more than the
585 rate it received for the rate year ending June 30, 1991; and (C) no
586 facility whose rate, if determined pursuant to this subsection, would be
587 less than one hundred twenty per cent of the state-wide median rate,
588 as determined pursuant to this subsection, shall receive a rate which is
589 six and one-half per cent more than the rate it received for the rate year
590 ending June 30, 1991. For the fiscal year ending June 30, 1993, no
591 facility shall receive a rate that is less than the rate it received for the
592 rate year ending June 30, 1992, or six per cent more than the rate it
593 received for the rate year ending June 30, 1992. For the fiscal year
594 ending June 30, 1994, no facility shall receive a rate that is less than the
595 rate it received for the rate year ending June 30, 1993, or six per cent
596 more than the rate it received for the rate year ending June 30, 1993.
597 For the fiscal year ending June 30, 1995, no facility shall receive a rate
598 that is more than five per cent less than the rate it received for the rate
599 year ending June 30, 1994, or six per cent more than the rate it received
600 for the rate year ending June 30, 1994. For the fiscal years ending June
601 30, 1996, and June 30, 1997, no facility shall receive a rate that is more

602 than three per cent more than the rate it received for the prior rate
603 year. For the fiscal year ending June 30, 1998, a facility shall receive a
604 rate increase that is not more than two per cent more than the rate that
605 the facility received in the prior year. For the fiscal year ending June
606 30, 1999, a facility shall receive a rate increase that is not more than
607 three per cent more than the rate that the facility received in the prior
608 year and that is not less than one per cent more than the rate that the
609 facility received in the prior year, exclusive of rate increases associated
610 with a wage, benefit and staffing enhancement rate adjustment added
611 for the period from April 1, 1999, to June 30, 1999, inclusive. For the
612 fiscal year ending June 30, 2000, each facility, except a facility with an
613 interim rate or replaced interim rate for the fiscal year ending June 30,
614 1999, and a facility having a certificate of need or other agreement
615 specifying rate adjustments for the fiscal year ending June 30, 2000,
616 shall receive a rate increase equal to one per cent applied to the rate the
617 facility received for the fiscal year ending June 30, 1999, exclusive of
618 the facility's wage, benefit and staffing enhancement rate adjustment.
619 For the fiscal year ending June 30, 2000, no facility with an interim rate,
620 replaced interim rate or scheduled rate adjustment specified in a
621 certificate of need or other agreement for the fiscal year ending June
622 30, 2000, shall receive a rate increase that is more than one per cent
623 more than the rate the facility received in the fiscal year ending June
624 30, 1999. For the fiscal year ending June 30, 2001, each facility, except a
625 facility with an interim rate or replaced interim rate for the fiscal year
626 ending June 30, 2000, and a facility having a certificate of need or other
627 agreement specifying rate adjustments for the fiscal year ending June
628 30, 2001, shall receive a rate increase equal to two per cent applied to
629 the rate the facility received for the fiscal year ending June 30, 2000,
630 subject to verification of wage enhancement adjustments pursuant to
631 subdivision (14) of this subsection. For the fiscal year ending June 30,
632 2001, no facility with an interim rate, replaced interim rate or
633 scheduled rate adjustment specified in a certificate of need or other
634 agreement for the fiscal year ending June 30, 2001, shall receive a rate
635 increase that is more than two per cent more than the rate the facility
636 received for the fiscal year ending June 30, 2000. For the fiscal year

637 ending June 30, 2002, each facility shall receive a rate that is two and
638 one-half per cent more than the rate the facility received in the prior
639 fiscal year. For the fiscal year ending June 30, 2003, each facility shall
640 receive a rate that is two per cent more than the rate the facility
641 received in the prior fiscal year, except that such increase shall be
642 effective January 1, 2003, and such facility rate in effect for the fiscal
643 year ending June 30, 2002, shall be paid for services provided until
644 December 31, 2002, except any facility that would have been issued a
645 lower rate effective July 1, 2002, than for the fiscal year ending June 30,
646 2002, due to interim rate status or agreement with the department shall
647 be issued such lower rate effective July 1, 2002, and have such rate
648 increased two per cent effective June 1, 2003. For the fiscal year ending
649 June 30, 2004, rates in effect for the period ending June 30, 2003, shall
650 remain in effect, except any facility that would have been issued a
651 lower rate effective July 1, 2003, than for the fiscal year ending June 30,
652 2003, due to interim rate status or agreement with the department shall
653 be issued such lower rate effective July 1, 2003. For the fiscal year
654 ending June 30, 2005, rates in effect for the period ending June 30, 2004,
655 shall remain in effect until December 31, 2004, except any facility that
656 would have been issued a lower rate effective July 1, 2004, than for the
657 fiscal year ending June 30, 2004, due to interim rate status or
658 agreement with the department shall be issued such lower rate
659 effective July 1, 2004. Effective January 1, 2005, each facility shall
660 receive a rate that is one per cent greater than the rate in effect
661 December 31, 2004. Effective upon receipt of all the necessary federal
662 approvals to secure federal financial participation matching funds
663 associated with the rate increase provided in this subdivision, but in
664 no event earlier than July 1, 2005, and provided the user fee imposed
665 under section 17b-320 is required to be collected, for the fiscal year
666 ending June 30, 2006, the department shall compute the rate for each
667 facility based upon its 2003 cost report filing or a subsequent cost year
668 filing for facilities having an interim rate for the period ending June 30,
669 2005, as provided under section 17-311-55 of the regulations of
670 Connecticut state agencies. For each facility not having an interim rate
671 for the period ending June 30, 2005, the rate for the period ending June

672 30, 2006, shall be determined beginning with the higher of the
673 computed rate based upon its 2003 cost report filing or the rate in
674 effect for the period ending June 30, 2005. Such rate shall then be
675 increased by eleven dollars and eighty cents per day except that in no
676 event shall the rate for the period ending June 30, 2006, be thirty-two
677 dollars more than the rate in effect for the period ending June 30, 2005,
678 and for any facility with a rate below one hundred ninety-five dollars
679 per day for the period ending June 30, 2005, such rate for the period
680 ending June 30, 2006, shall not be greater than two hundred seventeen
681 dollars and forty-three cents per day and for any facility with a rate
682 equal to or greater than one hundred ninety-five dollars per day for
683 the period ending June 30, 2005, such rate for the period ending June
684 30, 2006, shall not exceed the rate in effect for the period ending June
685 30, 2005, increased by eleven and one-half per cent. For each facility
686 with an interim rate for the period ending June 30, 2005, the interim
687 replacement rate for the period ending June 30, 2006, shall not exceed
688 the rate in effect for the period ending June 30, 2005, increased by
689 eleven dollars and eighty cents per day plus the per day cost of the
690 user fee payments made pursuant to section 17b-320 divided by
691 annual resident service days, except for any facility with an interim
692 rate below one hundred ninety-five dollars per day for the period
693 ending June 30, 2005, the interim replacement rate for the period
694 ending June 30, 2006, shall not be greater than two hundred seventeen
695 dollars and forty-three cents per day and for any facility with an
696 interim rate equal to or greater than one hundred ninety-five dollars
697 per day for the period ending June 30, 2005, the interim replacement
698 rate for the period ending June 30, 2006, shall not exceed the rate in
699 effect for the period ending June 30, 2005, increased by eleven and one-
700 half per cent. Such July 1, 2005, rate adjustments shall remain in effect
701 unless (i) the federal financial participation matching funds associated
702 with the rate increase are no longer available; or (ii) the user fee
703 created pursuant to section 17b-320 is not in effect. For the fiscal year
704 ending June 30, 2007, each facility shall receive a rate that is three per
705 cent greater than the rate in effect for the period ending June 30, 2006,
706 except any facility that would have been issued a lower rate effective

707 July 1, 2006, than for the rate period ending June 30, 2006, due to
708 interim rate status or agreement with the department, shall be issued
709 such lower rate effective July 1, 2006. For the fiscal year ending June
710 30, 2008, each facility shall receive a rate that is two and nine-tenths
711 per cent greater than the rate in effect for the period ending June 30,
712 2007, except any facility that would have been issued a lower rate
713 effective July 1, 2007, than for the rate period ending June 30, 2007, due
714 to interim rate status or agreement with the department, shall be
715 issued such lower rate effective July 1, 2007. For the fiscal year ending
716 June 30, 2009, rates in effect for the period ending June 30, 2008, shall
717 remain in effect until June 30, 2009, except any facility that would have
718 been issued a lower rate for the fiscal year ending June 30, 2009, due to
719 interim rate status or agreement with the department shall be issued
720 such lower rate. For the fiscal years ending June 30, 2010, and June 30,
721 2011, rates in effect for the period ending June 30, 2009, shall remain in
722 effect until June 30, 2011, except any facility that would have been
723 issued a lower rate for the fiscal year ending June 30, 2010, or the fiscal
724 year ending June 30, 2011, due to interim rate status or agreement with
725 the department, shall be issued such lower rate. For the fiscal years
726 ending June 30, 2012, and June 30, 2013, rates in effect for the period
727 ending June 30, 2011, shall remain in effect until June 30, 2013, except
728 any facility that would have been issued a lower rate for the fiscal year
729 ending June 30, 2012, or the fiscal year ending June 30, 2013, due to
730 interim rate status or agreement with the department, shall be issued
731 such lower rate. For the fiscal year ending June 30, 2014, the
732 department shall determine facility rates based upon 2011 cost report
733 filings subject to the provisions of this section and applicable
734 regulations except: (I) A ninety per cent minimum occupancy standard
735 shall be applied; (II) no facility shall receive a rate that is higher than
736 the rate in effect on June 30, 2013; and (III) no facility shall receive a
737 rate that is more than four per cent lower than the rate in effect on June
738 30, 2013, except that any facility that would have been issued a lower
739 rate effective July 1, 2013, than for the rate period ending June 30, 2013,
740 due to interim rate status or agreement with the department, shall be
741 issued such lower rate effective July 1, 2013. For the fiscal year ending

742 June 30, 2015, rates in effect for the period ending June 30, 2014, shall
743 remain in effect until June 30, 2015, except any facility that would have
744 been issued a lower rate effective July 1, 2014, than for the rate period
745 ending June 30, 2014, due to interim rate status or agreement with the
746 department, shall be issued such lower rate effective July 1, 2014. For
747 the fiscal years ending June 30, 2016, and June 30, 2017, rates shall not
748 exceed those in effect for the period ending June 30, 2015, except the
749 rate paid to a facility may be higher than the rate paid to the facility for
750 the period ending June 30, 2015, if the commissioner provides, within
751 available appropriations, pro rata fair rent increases, which may, at the
752 discretion of the commissioner, include increases for facilities which
753 have undergone a material change in circumstances related to fair rent
754 additions or moveable equipment placed in service in cost report years
755 ending September 30, 2014, and September 30, 2015, and not otherwise
756 included in rates issued. For the fiscal years ending June 30, 2016, and
757 June 30, 2017, and each succeeding fiscal year, any facility that would
758 have been issued a lower rate, due to interim rate status or agreement
759 with the department, shall be issued such lower rate. For the fiscal year
760 ending June 30, 2018, facilities that received a rate decrease due to the
761 expiration of a 2015 fair rent asset shall receive a rate increase of an
762 equivalent amount effective July 1, 2017. For the fiscal year ending
763 June 30, 2018, the department shall determine facility rates based upon
764 2016 cost report filings subject to the provisions of this section and
765 applicable regulations, provided no facility shall receive a rate that is
766 higher than the rate in effect on December 31, 2016, and no facility
767 shall receive a rate that is more than two per cent lower than the rate in
768 effect on December 31, 2016. For the fiscal year ending June 30, 2019,
769 no facility shall receive a rate that is higher than the rate in effect on
770 June 30, 2018, except the rate paid to a facility may be higher than the
771 rate paid to the facility for the period ending June 30, 2018, if the
772 commissioner provides, within available appropriations, pro rata fair
773 rent increases, which may, at the discretion of the commissioner,
774 include increases for facilities which have undergone a material
775 change in circumstances related to fair rent additions or moveable
776 equipment placed in service in the cost report year ending September

777 30, 2017, and not otherwise included in rates issued. For the fiscal year
778 ending June 30, 2020, the department shall determine facility rates
779 based upon 2018 cost report filings subject to the provisions of this
780 section and applicable regulations, provided no facility shall receive a
781 rate that is higher than the rate in effect on June 30, 2019, except the
782 rate paid to a facility may be higher than the rate paid to the facility for
783 the fiscal year ending June 30, 2019, if the commissioner provides,
784 within available appropriations, pro rata fair rent increases, which
785 may, at the discretion of the commissioner, include increases for
786 facilities which have undergone a material change in circumstances
787 related to fair rent additions in the cost report year ending September
788 30, 2018, and are not otherwise included in rates issued. For the fiscal
789 year ending June 30, 2020, no facility shall receive a rate that is more
790 than two per cent lower than the rate in effect on June 30, 2019, unless
791 the facility has an occupancy level of less than seventy per cent, as
792 reported in the 2018 cost report, or an overall rating on Medicare's
793 Nursing Home Compare Internet web site of one star on June 1, 2019.
794 For the fiscal year ending June 30, 2021, no facility shall receive a rate
795 that is higher than the rate in effect on June 30, 2020, except the rate
796 paid to a facility may be higher than the rate paid to the facility for the
797 fiscal year ending June 30, 2020, if the commissioner provides, within
798 available appropriations, pro rata fair rent increases, which may, at the
799 discretion of the commissioner, include increases for facilities which
800 have undergone a material change in circumstances related to fair rent
801 additions in the cost report year ending September 30, 2019, and are
802 not otherwise included in rates issued. The Commissioner of Social
803 Services shall add fair rent increases to any other rate increases
804 established pursuant to this subdivision for a facility which has
805 undergone a material change in circumstances related to fair rent,
806 except for the fiscal years ending June 30, 2010, June 30, 2011, and June
807 30, 2012, such fair rent increases shall only be provided to facilities
808 with an approved certificate of need pursuant to section 17b-352, as
809 amended by this act, 17b-353, as amended by this act, 17b-354 or 17b-
810 355. For the fiscal year ending June 30, 2013, the commissioner may,
811 within available appropriations, provide pro rata fair rent increases for

812 facilities which have undergone a material change in circumstances
813 related to fair rent additions placed in service in cost report years
814 ending September 30, 2008, to September 30, 2011, inclusive, and not
815 otherwise included in rates issued. For the fiscal years ending June 30,
816 2014, and June 30, 2015, the commissioner may, within available
817 appropriations, provide pro rata fair rent increases, which may include
818 moveable equipment at the discretion of the commissioner, for
819 facilities which have undergone a material change in circumstances
820 related to fair rent additions or moveable equipment placed in service
821 in cost report years ending September 30, 2012, and September 30,
822 2013, and not otherwise included in rates issued. The commissioner
823 shall add fair rent increases associated with an approved certificate of
824 need pursuant to section 17b-352, as amended by this act, 17b-353, as
825 amended by this act, 17b-354 or 17b-355. Interim rates may take into
826 account reasonable costs incurred by a facility, including wages and
827 benefits. Notwithstanding the provisions of this section, the
828 Commissioner of Social Services may, subject to available
829 appropriations, increase or decrease rates issued to licensed chronic
830 and convalescent nursing homes and licensed rest homes with nursing
831 supervision. Notwithstanding any provision of this section, the
832 Commissioner of Social Services shall, effective July 1, 2015, within
833 available appropriations, adjust facility rates in accordance with the
834 application of standard accounting principles as prescribed by the
835 commissioner, for each facility subject to subsection (a) of this section.
836 Such adjustment shall provide a pro-rata increase based on direct and
837 indirect care employee salaries reported in the 2014 annual cost report,
838 and adjusted to reflect subsequent salary increases, to reflect
839 reasonable costs mandated by collective bargaining agreements with
840 certified collective bargaining agents, or otherwise provided by a
841 facility to its employees. For purposes of this subsection, "employee"
842 shall not include a person employed as a facility's manager, chief
843 administrator, a person required to be licensed as a nursing home
844 administrator or any individual who receives compensation for
845 services pursuant to a contractual arrangement and who is not directly
846 employed by the facility. The commissioner may establish an upper

847 limit for reasonable costs associated with salary adjustments beyond
848 which the adjustment shall not apply. Nothing in this section shall
849 require the commissioner to distribute such adjustments in a way that
850 jeopardizes anticipated federal reimbursement. Facilities that receive
851 such adjustment but do not provide increases in employee salaries as
852 described in this subsection on or before July 31, 2015, may be subject
853 to a rate decrease in the same amount as the adjustment by the
854 commissioner. Of the amount appropriated for this purpose, no more
855 than nine million dollars shall go to increases based on reasonable
856 costs mandated by collective bargaining agreements.

857 Sec. 9. Section 19a-545 of the general statutes is repealed and the
858 following is substituted in lieu thereof (*Effective July 1, 2019*):

859 (a) A receiver appointed pursuant to the provisions of sections 19a-
860 541 to 19a-549, inclusive, in operating a nursing home facility or
861 residential care home, shall have the same powers as a receiver of a
862 corporation under section 52-507, except as provided in subsection (c)
863 of this section and shall exercise such powers to remedy the conditions
864 that constituted grounds for the imposition of receivership, assure
865 adequate health care for the residents and preserve the assets and
866 property of the owner. If such facility or home is placed in receivership
867 it shall be the duty of the receiver to notify each resident and each
868 resident's guardian or conservator, if any, or legally liable relative or
869 other responsible party, if known. Such receiver may correct or
870 eliminate any deficiency in the structure or furnishings of such facility
871 or home that endangers the safety or health of the residents while they
872 remain in such facility or home, provided the total cost of correction
873 does not exceed [three] ten thousand dollars. The court may order
874 expenditures for this purpose in excess of three thousand dollars on
875 application from such receiver. If any resident is transferred or
876 discharged such receiver shall provide for: (1) Transportation of the
877 resident and such resident's belongings and medical records to the
878 place where such resident is being transferred or discharged; (2) aid in
879 locating an alternative placement and discharge planning in
880 accordance with section 19a-535; (3) preparation for transfer to

881 mitigate transfer trauma, including but not limited to, participation by
882 the resident or the resident's guardian in the selection of the resident's
883 alternative placement, explanation of alternative placements and
884 orientation concerning the placement chosen by the resident or the
885 resident's guardian; and (4) custodial care of all property or assets of
886 residents that are in the possession of an owner of such facility or
887 home. The receiver shall preserve all property, assets and records of
888 residents that the receiver has custody of and shall provide for the
889 prompt transfer of the property, assets and records to the alternative
890 placement of any transferred resident. In no event may the receiver
891 transfer all residents and close such facility or home without a court
892 order and without complying with the notice and discharge plan
893 requirements for each resident in accordance with section 19a-535.

894 (b) Not later than ninety days after the date of appointment as a
895 receiver, such receiver shall take all necessary steps to stabilize the
896 operation of the facility in order to ensure the health, safety and
897 welfare of the residents of such facility. The receiver shall immediately
898 commence the closure of the facility if the overall occupancy of the
899 facility is below seventy per cent and the closing of the facility is
900 consistent with the strategic rebalancing plan developed in accordance
901 with section 17b-369. In addition, within a reasonable time period after
902 the date of appointment, not to exceed [six months] forty-five days, the
903 receiver shall [: (1) Determine] determine whether the facility can
904 continue to operate and provide adequate care to residents in
905 substantial compliance with applicable federal and state law within the
906 facility's state payments as established by the Commissioner of Social
907 Services pursuant to subsection (f) of section 17b-340, as amended by
908 this act, together with income from self-pay residents, Medicare
909 payments and other current income and shall report such
910 determination to the court. [; and (2) seek facility purchase proposals.]
911 Within a reasonable time period after the date of appointment, not to
912 exceed six months, the receiver shall seek facility purchase proposals if
913 the receiver's determination under this section finds that continued
914 operation of the facility is viable. If the receiver determines that the
915 facility will be unable to continue to operate in compliance with said

916 requirements, the receiver shall promptly request an order of the court
917 to close the facility and make arrangements for the orderly transfer of
918 residents pursuant to subsection (a) of this section unless the receiver
919 determines that a transfer of the facility to a qualified purchaser is
920 expected during the six-month period commencing on the date of the
921 receiver's appointment. If a transfer is not completed within such
922 period and all purchase and sale proposal efforts have been exhausted,
923 the receiver shall request an immediate order of the court to close the
924 facility and make arrangements for the orderly transfer of residents
925 pursuant to subsection (a) of this section.

926 (c) The court may limit the powers of a receiver appointed pursuant
927 to the provisions of sections 19a-541 to 19a-549, inclusive, to those
928 necessary to solve a specific problem.

929 Sec. 10. Section 17b-352 of the general statutes is repealed and the
930 following is substituted in lieu thereof (*Effective July 1, 2019*):

931 (a) For the purposes of this section and section 17b-353, as amended
932 by this act, "facility" means a residential facility for persons with
933 intellectual disability licensed pursuant to section 17a-277 and certified
934 to participate in the Title XIX Medicaid program as an intermediate
935 care facility for individuals with intellectual disabilities, a nursing
936 home, rest home or residential care home, as defined in section 19a-
937 490. "Facility" does not include a nursing home that does not
938 participate in the Medicaid program and is associated with a
939 continuing care facility as described in section 17b-520.

940 (b) Any facility which intends to (1) transfer all or part of its
941 ownership or control prior to being initially licensed; (2) introduce any
942 additional function or service into its program of care or expand an
943 existing function or service; (3) terminate a service or decrease
944 substantially its total bed capacity; or (4) relocate all or a portion of
945 such facility's licensed beds, to a new facility or replacement facility,
946 shall submit a complete request for permission to implement such
947 transfer, addition, expansion, increase, termination, decrease or
948 relocation of facility beds [with such information as the department

949 requires] to the Department of Social Services with such information as
950 the department requires, provided no permission or request for
951 permission to close a facility is required when a facility in receivership
952 is closed by order of the Superior Court pursuant to section 19a-545, as
953 amended by this act. The Office of the Long-Term Care Ombudsman
954 pursuant to section 17a-405 shall be notified by the facility of any
955 proposed actions pursuant to this subsection at the same time the
956 request for permission is submitted to the department and when a
957 facility in receivership is closed by order of the Superior Court
958 pursuant to section 19a-545, as amended by this act.

959 (c) A facility may submit a petition for closure to the Department of
960 Social Services. The Department of Social Services may authorize the
961 closure of a facility if the facility's management demonstrates to the
962 satisfaction of the Commissioner of Social Services in the petition for
963 closure that the facility (1) is not viable based on actual and projected
964 operating losses; (2) has an occupancy rate of less than seventy per cent
965 of the facility's licensed bed capacity; (3) closure is consistent with the
966 strategic rebalancing plan developed in accordance with section 17b-
967 369; (4) is in compliance with the requirements of Sections 1128I(h) and
968 1819(h)(4) of the Social Security Act and 42 CFR 483.75; and (5) is not
969 providing special services that would go unmet if the facility closes.
970 The department shall review a petition for closure to the extent it
971 deems necessary and the facility shall submit information the
972 department requests or deems necessary to substantiate that the
973 facility closure is consistent with the provisions of this subsection. The
974 Office of the Long-Term Care Ombudsman shall be notified by the
975 facility at the same time as a petition for closure is submitted to the
976 department. Any facility acting pursuant to this subsection shall
977 provide written notice, on the same date that the facility submits its
978 petition for closure, to all patients, guardians or conservators, if any, or
979 legally liable relatives or other responsible parties, if known, and shall
980 post such notice in a conspicuous location at the facility. The facility's
981 written notice shall be accompanied by an informational letter issued
982 jointly from the Office of the Long-Term Care Ombudsman and the
983 Department of Rehabilitation Services on patients' rights and services

984 available as they relate to the petition for closure. The informational
985 letter shall also state the date and time that the Office of the Long-Term
986 Care Ombudsman and the Department of Public Health will hold an
987 informational session at the facility for patients, guardians or
988 conservators, if any, and legally liable relatives or other responsible
989 parties, if known, about their rights and the process concerning a
990 petition for closure. The notice shall state: (A) The date the facility
991 submitted the petition for closure, (B) that only the Department of
992 Social Services has the authority to either grant or deny the petition for
993 closure, (C) that the Department of Social Services has up to thirty days
994 to grant or deny the petition for closure, (D) a brief description of the
995 reason or reasons for submitting the petition for closure, (E) that no
996 patient shall be involuntarily transferred or discharged within or from
997 a facility pursuant to state and federal law because of the filing of a
998 petition for closure, (F) that all patients have a right to appeal any
999 proposed transfer or discharge, and (G) the name, mailing address and
1000 telephone number of the Office of the Long-Term Care Ombudsman
1001 and local legal aid office. The commissioner shall grant or deny a
1002 petition for closure within thirty days of receiving such request.

1003 [(c)] (d) An applicant, prior to submitting a certificate of need
1004 application, shall request, in writing, application forms and
1005 instructions from the department. The request shall include: (1) The
1006 name of the applicant or applicants; (2) a statement indicating whether
1007 the application is for (A) a new, additional, expanded or replacement
1008 facility, service or function or relocation of facility beds, (B) a
1009 termination or reduction in a presently authorized service or bed
1010 capacity, or (C) any new, additional or terminated beds and their type;
1011 (3) the estimated capital cost; (4) the town where the project is or will
1012 be located; and (5) a brief description of the proposed project. Such
1013 request shall be deemed a letter of intent. No certificate of need
1014 application shall be considered submitted to the department unless a
1015 current letter of intent, specific to the proposal and in accordance with
1016 the provisions of this subsection, has been on file with the department
1017 for not less than ten business days. For purposes of this subsection, "a
1018 current letter of intent" means a letter of intent on file with the

1019 department for not more than one hundred eighty days. A certificate
1020 of need application shall be deemed withdrawn by the department, if a
1021 department completeness letter is not responded to within one
1022 hundred eighty days. The Office of the Long-Term Care Ombudsman
1023 shall be notified by the facility at the same time as the letter of intent is
1024 submitted to the department.

1025 ~~[(d)]~~ (e) Any facility acting pursuant to subdivision (3) of subsection
1026 (b) of this section shall provide written notice, at the same time it
1027 submits its letter of intent, to all patients, guardians or conservators, if
1028 any, or legally liable relatives or other responsible parties, if known,
1029 and shall post such notice in a conspicuous location at the facility. The
1030 facility's written notice shall be accompanied by an informational letter
1031 issued jointly from the Office of the Long-Term Care Ombudsman and
1032 the Department of Rehabilitation Services on patients' rights and
1033 services available as they relate to the letter of intent. The notice shall
1034 state the following: (1) The projected date the facility will be
1035 submitting its certificate of need application, (2) that only the
1036 Department of Social Services has the authority to either grant, modify
1037 or deny the application, (3) that the Department of Social Services has
1038 up to ninety days to grant, modify or deny the certificate of need
1039 application, (4) a brief description of the reason or reasons for
1040 submitting a request for permission, (5) that no patient shall be
1041 involuntarily transferred or discharged within or from a facility
1042 pursuant to state and federal law because of the filing of the certificate
1043 of need application, (6) that all patients have a right to appeal any
1044 proposed transfer or discharge, and (7) the name, mailing address and
1045 telephone number of the Office of the Long-Term Care Ombudsman
1046 and local legal aid office.

1047 ~~[(e)]~~ (f) The department shall review a request made pursuant to
1048 subsection (b) of this section to the extent it deems necessary,
1049 including, but not limited to, in the case of a proposed transfer of
1050 ownership or control prior to initial licensure, the financial
1051 responsibility and business interests of the transferee and the ability of
1052 the facility to continue to provide needed services, or in the case of the

1053 addition or expansion of a function or service, ascertaining the
1054 availability of the function or service at other facilities within the area
1055 to be served, the need for the service or function within the area and
1056 any other factors the department deems relevant to a determination of
1057 whether the facility is justified in adding or expanding the function or
1058 service. The commissioner shall grant, modify or deny the request
1059 within ninety days of receipt thereof, except as otherwise provided in
1060 this section. Upon the request of the applicant, the review period may
1061 be extended for an additional fifteen days if the department has
1062 requested additional information subsequent to the commencement of
1063 the commissioner's review period. The director of the office of
1064 certificate of need and rate setting may extend the review period for a
1065 maximum of thirty days if the applicant has not filed in a timely
1066 manner information deemed necessary by the department. The
1067 applicant may request and shall receive a hearing in accordance with
1068 section 4-177 if aggrieved by a decision of the commissioner.

1069 ~~[(f)]~~ (g) The Commissioner of Social Services shall not approve any
1070 requests for beds in residential facilities for persons with intellectual
1071 disability which are licensed pursuant to section 17a-227 and are
1072 certified to participate in the Title XIX Medicaid Program as
1073 intermediate care facilities for individuals with intellectual disabilities,
1074 except those beds necessary to implement the residential placement
1075 goals of the Department of Developmental Services which are within
1076 available appropriations.

1077 ~~[(g)]~~ (h) The Commissioner of Social Services shall adopt
1078 regulations, in accordance with chapter 54, to implement the
1079 provisions of this section.

1080 Sec. 11. Subsection (d) of section 17b-353 of the general statutes is
1081 repealed and the following is substituted in lieu thereof (*Effective July*
1082 *1, 2019*):

1083 (d) Except as provided in this subsection, no facility shall be allowed
1084 to close or decrease substantially its total bed capacity until such time
1085 as a public hearing has been held in accordance with the provisions of

1086 this subsection and the Commissioner of Social Services has approved
1087 the facility's request unless such decrease is associated with a census
1088 reduction. The commissioner may impose a civil penalty of not more
1089 than five thousand dollars on any facility that fails to comply with the
1090 provisions of this subsection. Penalty payments received by the
1091 commissioner pursuant to this subsection shall be deposited in the
1092 special fund established by the department pursuant to subsection (c)
1093 of section 17b-357 and used for the purposes specified in said
1094 subsection (c). The commissioner or the commissioner's designee shall
1095 hold a public hearing upon the earliest occurrence of: (1) Receipt of
1096 any letter of intent submitted by a facility to the department, or (2)
1097 receipt of any certificate of need application. Such hearing shall be held
1098 at the facility for which the letter of intent or certificate of need
1099 application was submitted not later than thirty days after the date on
1100 which such letter or application was received by the commissioner.
1101 The commissioner or the commissioner's designee shall provide both
1102 the facility and the public with notice of the date of the hearing not less
1103 than fourteen days in advance of such date. Notice to the facility shall
1104 be by certified mail and notice to the public shall be by publication in a
1105 newspaper having a substantial circulation in the area served by the
1106 facility. The provisions of this subsection shall not apply to any
1107 certificate of need approval requested for the relocation of a facility, or
1108 a portion of a facility's licensed beds, to a new or replacement facility
1109 nor to a facility that is closing pursuant to subsection (c) of section 17b-
1110 352, as amended by this act.

1111 Sec. 12. (NEW) (*Effective from passage*) For purposes of this section
1112 "covenant not to compete" means any contract or agreement that
1113 restricts the right of an individual to provide homemaker, companion
1114 or home health services (1) in any geographic area of the state for any
1115 period of time, or (2) to a specific individual. Any covenant not to
1116 compete is against public policy and shall be void and unenforceable.

1117 Sec. 13. Section 17b-256f of the general statutes is repealed and the
1118 following is substituted in lieu thereof (*Effective July 1, 2020*):

1119 The Commissioner of Social Services shall increase income
1120 disregards used to determine eligibility by the Department of Social
1121 Services for the federal Qualified Medicare Beneficiary, the Specified
1122 Low-Income Medicare Beneficiary and the Qualifying Individual
1123 programs, administered in accordance with the provisions of 42 USC
1124 1396d(p), by such amounts that shall result in persons with income
1125 that is (1) less than two hundred eleven per cent of the federal poverty
1126 level qualifying for the Qualified Medicare Beneficiary program, (2) at
1127 or above two hundred eleven per cent of the federal poverty level but
1128 less than two hundred thirty-one per cent of the federal poverty level
1129 qualifying for the Specified Low-Income Medicare Beneficiary
1130 program, and (3) at or above two hundred thirty-one per cent of the
1131 federal poverty level but less than two hundred forty-six per cent of
1132 the federal poverty level qualifying for the Qualifying Individual
1133 program. The commissioner shall [not] apply an asset test for
1134 eligibility under the Medicare Savings Program. Such asset test shall be
1135 set in accordance with the provisions of 42 USC 1396d(p)(1)(C). The
1136 commissioner shall not consider as income Aid and Attendance
1137 pension benefits granted to a veteran, as defined in section 27-103, or
1138 the surviving spouse of such veteran. The Commissioner of Social
1139 Services, pursuant to section 17b-10, may implement policies and
1140 procedures to administer the provisions of this section while in the
1141 process of adopting such policies and procedures in regulation form,
1142 provided the commissioner prints notice of the intent to adopt the
1143 regulations on the department's Internet web site and the eRegulations
1144 System not later than twenty days after the date of implementation.
1145 Such policies and procedures shall be valid until the time final
1146 regulations are adopted.

1147 Sec. 14. Subsections (a) and (b) of section 17b-238 of the general
1148 statutes are repealed and the following is substituted in lieu thereof
1149 (*Effective from passage*):

1150 (a) [The Commissioner of Social Services shall establish annually the
1151 cost of services for which payment is to be made under the provisions
1152 of section 17b-239.] All hospitals receiving state aid shall submit their

1153 cost data under oath on forms approved by the [commissioner]
1154 Commissioner of Social Services. The commissioner may adopt, in
1155 accordance with the provisions of chapter 54, regulations concerning
1156 the submission of data by [institutions and agencies] providers to
1157 which payments are to be made under sections 17b-239, as amended
1158 by this act, 17b-243, 17b-244, as amended by this act, 17b-340, as
1159 amended by this act, 17b-341 and section 17b-343, and the defining of
1160 policies utilized by the commissioner in establishing rates under said
1161 sections, which data and policies are necessary for the efficient
1162 administration of said sections. The commissioner shall provide, upon
1163 request, a statement of interpretation of the Medicaid cost-related
1164 reimbursement system regulations for long-term care facilities
1165 reimbursed under section 17b-340, as amended by this act, concerning
1166 allowable and unallowable costs or expenditures. Such statement of
1167 interpretation shall not be construed to constitute a regulation violative
1168 of chapter 54. Failure of such statement of interpretation to address a
1169 specific unallowable cost or expenditure fact pattern shall in no way
1170 prevent the commissioner from enforcing all applicable laws and
1171 regulations.

1172 (b) Any [institution or agency] provider to which payments are to
1173 be made under [sections 17b-239 to 17b-246, inclusive, and sections
1174 17b-340 and 17b-343 which] section 17b-239, as amended by this act,
1175 17b-244, as amended by this act, 17b-244a or 17b-340, as amended by
1176 this act, that is aggrieved by any decision of [said] the commissioner in
1177 setting or revising a provider-specific rate that applies to such provider
1178 or in taking an action regarding such provider for which an appeal is
1179 required pursuant to 42 CFR 431, Subpart D, may, within ten days
1180 after written notice thereof from the commissioner, obtain, by written
1181 request to the commissioner, a rehearing on all items of aggrievement
1182 [. On and after July 1, 1996, a] involving a provider-specific rate or an
1183 action for which an appeal is required pursuant to 42 CFR 431, Subpart
1184 D. A rehearing shall be held by the commissioner or his designee,
1185 provided a detailed written description of all such items is filed within
1186 ninety days of written notice of the commissioner's decision. The
1187 rehearing shall be held within thirty days of the filing of the detailed

1188 written description of each specific item of aggrievement. The
1189 commissioner shall issue a final decision within sixty days of the close
1190 of evidence or the date on which final briefs are filed, whichever
1191 occurs later. Any designee of the commissioner who presides over
1192 such rehearing shall be impartial and shall not be employed within the
1193 Department of Social Services office of certificate of need and rate
1194 setting. Any such items not resolved at such rehearing to the
1195 satisfaction of [either such institution or agency] such provider or said
1196 commissioner shall be submitted to binding arbitration to an
1197 arbitration board consisting of one member appointed by the
1198 [institution or agency] provider, one member appointed by the
1199 commissioner and one member appointed by the Chief Court
1200 Administrator from among the retired judges of the Superior Court,
1201 which retired judge shall be compensated for his services on such
1202 board in the same manner as a state referee is compensated for his
1203 services under section 52-434. The proceedings of the arbitration board
1204 and any decisions rendered by such board shall be conducted in
1205 accordance with the provisions of the Social Security Act, 49 Stat. 620
1206 (1935), 42 USC 1396, as amended from time to time, and chapter 54. For
1207 purposes of this subsection, "provider-specific rate" means a rate or
1208 other payment methodology that applies only to one provider and was
1209 set or revised by the department based on cost or other information
1210 specific to such provider. "Provider-specific rate" does not include any
1211 rate or payment methodology that applies to more than one provider
1212 or that applies state-wide to any category of providers.

1213 Sec. 15. Section 17b-242 of the general statutes is repealed and the
1214 following is substituted in lieu thereof (*Effective from passage*):

1215 (a) The Department of Social Services shall determine the rates to be
1216 paid to home health care agencies and homemaker-home health aide
1217 agencies by the state or any town in the state for persons aided or
1218 cared for by the state or any such town. [For the period from February
1219 1, 1991, to January 31, 1992, inclusive, payment for each service to the
1220 state shall be based upon the rate for such service as determined by the
1221 Office of Health Care Access, except that for those providers whose

1222 Medicaid rates for the year ending January 31, 1991, exceed the median
1223 rate, no increase shall be allowed. For those providers whose rates for
1224 the year ending January 31, 1991, are below the median rate, increases
1225 shall not exceed the lower of the prior rate increased by the most
1226 recent annual increase in the consumer price index for urban
1227 consumers or the median rate. In no case shall any such rate exceed the
1228 eightieth percentile of rates in effect January 31, 1991, nor shall any rate
1229 exceed the charge to the general public for similar services. Rates
1230 effective February 1, 1992, shall be based upon rates as determined by
1231 the Office of Health Care Access, except that increases shall not exceed
1232 the prior year's rate increased by the most recent annual increase in the
1233 consumer price index for urban consumers and rates effective
1234 February 1, 1992, shall remain in effect through June 30, 1993. Rates
1235 effective July 1, 1993, shall be based upon rates as determined by the
1236 Office of Health Care Access except if the Medicaid rates for any
1237 service for the period ending June 30, 1993, exceed the median rate for
1238 such service, the increase effective July 1, 1993, shall not exceed one
1239 per cent. If the Medicaid rate for any service for the period ending June
1240 30, 1993, is below the median rate, the increase effective July 1, 1993,
1241 shall not exceed the lower of the prior rate increased by one and one-
1242 half times the most recent annual increase in the consumer price index
1243 for urban consumers or the median rate plus one per cent. The
1244 Commissioner of Social Services shall establish a fee schedule for home
1245 health services to be effective on and after July 1, 1994. The
1246 commissioner may annually modify such fee schedule if such
1247 modification is needed to ensure that the conversion to an
1248 administrative services organization is cost neutral to home health care
1249 agencies and homemaker-home health aide agencies in the aggregate
1250 and ensures patient access. Utilization may be a factor in determining
1251 cost neutrality. The commissioner shall increase the fee schedule for
1252 home health services provided under the Connecticut home-care
1253 program for the elderly established under section 17b-342, effective
1254 July 1, 2000, by two per cent over the fee schedule for home health
1255 services for the previous year.] The commissioner may increase any fee
1256 payable to a home health care agency or homemaker-home health aide

1257 agency upon the application of such an agency evidencing
1258 extraordinary costs related to (1) serving persons with AIDS; (2) high-
1259 risk maternal and child health care; (3) escort services; or (4) extended
1260 hour services. In no case shall any rate or fee exceed the charge to the
1261 general public for similar services. [A home health care agency or
1262 homemaker-home health aide agency which, due to any material
1263 change in circumstances, is aggrieved by a rate determined pursuant
1264 to this subsection may, within ten days of receipt of written notice of
1265 such rate from the Commissioner of Social Services, request in writing
1266 a hearing on all items of aggrievement. The commissioner shall, upon
1267 the receipt of all documentation necessary to evaluate the request,
1268 determine whether there has been such a change in circumstances and
1269 shall conduct a hearing if appropriate.] The Commissioner of Social
1270 Services shall adopt regulations, in accordance with chapter 54, to
1271 implement the provisions of this subsection. The commissioner may
1272 implement policies and procedures to carry out the provisions of this
1273 subsection while in the process of adopting regulations, provided
1274 notice of intent to adopt the regulations is published [in the
1275 Connecticut Law Journal] on the department's Internet web site and
1276 the eRegulations System not later than twenty days after the date of
1277 implementing the policies and procedures. [Such policies and
1278 procedures shall be valid for not longer than nine months.]

1279 (b) The Department of Social Services shall monitor the rates
1280 charged by home health care agencies and homemaker-home health
1281 aide agencies. Such agencies shall file annual cost reports and service
1282 charge information with the department.

1283 (c) The home health services fee schedule shall include a fee for the
1284 administration of medication, which shall apply when the purpose of a
1285 nurse's visit is limited to the administration of medication.
1286 Administration of medication may include, but is not limited to, blood
1287 pressure checks, glucometer readings, pulse rate checks and similar
1288 indicators of health status. The fee for medication administration shall
1289 include administration of medications while the nurse is present, the
1290 pre-pouring of additional doses that the client will self-administer at a

1291 later time and the teaching of self-administration. The department
1292 shall not pay for medication administration in addition to any other
1293 nursing service at the same visit. The department may establish prior
1294 authorization requirements for this service. Before implementing such
1295 change, the Commissioner of Social Services shall consult with the
1296 chairpersons of the joint standing committees of the General Assembly
1297 having cognizance of matters relating to public health and human
1298 services. The commissioner shall monitor Medicaid home health care
1299 savings achieved through the implementation of nurse delegation of
1300 medication administration pursuant to section 19a-492e. If, by January
1301 1, 2016, the commissioner determines that the rate of savings is not
1302 adequate to meet the annualized savings assumed in the budget for the
1303 biennium ending June 30, 2017, the department may reduce rates for
1304 medication administration as necessary to achieve the savings
1305 assumed in the budget. Prior to any rate reduction, the department
1306 shall report to the joint standing committees of the General Assembly
1307 having cognizance of matters relating to appropriations and the
1308 budgets of state agencies and human services provider specific cost
1309 and utilization trend data for those patients receiving medication
1310 administration. Should the department determine it necessary to
1311 reduce medication administration rates under this section, it shall
1312 examine the possibility of establishing a separate Medicaid
1313 supplemental rate or a pay-for-performance program for those
1314 providers, as determined by the commissioner, who have established
1315 successful nurse delegation programs.

1316 (d) The home health services fee schedule established pursuant to
1317 subsection (c) of this section shall include rates for psychiatric nurse
1318 visits.

1319 (e) The Department of Social Services, when processing or auditing
1320 claims for reimbursement submitted by home health care agencies and
1321 homemaker-home health aide agencies shall, in accordance with the
1322 provisions of chapter 15, accept electronic records and records bearing
1323 the electronic signature of a licensed physician or licensed practitioner
1324 of a healthcare profession that has been submitted to the home health

1325 care agency or homemaker home-health aide agency.

1326 (f) If the electronic record or signature that has been transmitted to a
1327 home health care agency or homemaker-home health aide agency is
1328 illegible or the department is unable to determine the validity of such
1329 electronic record or signature, the department shall review additional
1330 evidence of the accuracy or validity of the record or signature,
1331 including, but not limited to, (1) the original of the record or signature,
1332 or (2) a written statement, made under penalty of false statement, from
1333 (A) the licensed physician or licensed practitioner of a health care
1334 profession who signed such record, or (B) if such licensed physician or
1335 licensed practitioner of a health care profession is unavailable, the
1336 medical director of the agency verifying the accuracy or validity of
1337 such record or signature, and the department shall make a
1338 determination whether the electronic record or signature is valid.

1339 (g) The Department of Social Services, when auditing claims
1340 submitted by home health care agencies and homemaker-home health
1341 aide agencies, shall consider any signature from a licensed physician
1342 or licensed practitioner of a health care profession that may be
1343 required on a plan of care for home health services, to have been
1344 provided in timely fashion if (1) the document bearing such signature
1345 was signed prior to the time when such agency seeks reimbursement
1346 from the department for services provided, and (2) verbal or telephone
1347 orders from the licensed physician or licensed practitioner of a health
1348 care profession were received prior to the commencement of services
1349 covered by the plan of care and such orders were subsequently
1350 documented. Nothing in this subsection shall be construed as limiting
1351 the powers of the Commissioner of Public Health to enforce the
1352 provisions of sections 19-13-D73 and 19-13-D74 of the regulations of
1353 Connecticut state agencies and 42 CFR 484.18(c).

1354 (h) For purposes of this section, "licensed practitioner of a healthcare
1355 profession" has the same meaning as "licensed practitioner" in section
1356 21a-244a.

1357 Sec. 16. Section 17b-239 of the general statutes is amended by

1358 adding subsections (k) and (l) as follows (*Effective July 1, 2019*):

1359 (NEW) (k) (1) The Commissioner of Social Services shall implement
1360 one or more value-based payment methodologies in accordance with
1361 this subsection in order to improve health outcomes and reduce
1362 unnecessary costs, as determined by the commissioner. Such value-
1363 based payment methodologies may be phased in over time to the
1364 extent determined necessary by the commissioner and may include,
1365 but need not be limited to, methods that are designed to: (A) Reduce
1366 inpatient hospital readmissions; (B) reduce unnecessary caesarian
1367 section deliveries, take appropriate actions to reduce preterm
1368 deliveries and improve obstetrical care outcomes; (C) address
1369 outpatient infusions involving high-cost medications by implementing
1370 performance-based payments; and (D) implement such other policies
1371 as determined by the commissioner.

1372 (2) In addition to any value-based payment methodology
1373 implemented in accordance with subdivision (1) of this subsection, the
1374 Commissioner of Social Services shall reduce the total applicable rate
1375 payments by fifteen per cent for each readmission, as defined in this
1376 subdivision. For purposes of this subdivision, "readmission" means, in
1377 the case of an individual who is discharged from an applicable
1378 hospital, the admission of the individual for observation services
1379 provided to the individual for the same or similar diagnosis or
1380 diagnoses not later than thirty days from the date of such discharge.
1381 Nothing in this subdivision shall preclude the commissioner from
1382 establishing additional value-based payment methodologies regarding
1383 readmissions.

1384 (3) Notwithstanding any other provision of the general statutes,
1385 each applicable hospital rate and supplemental payment methodology
1386 designated by the commissioner shall incorporate each value-based
1387 payment methodology established pursuant to this section, including
1388 structuring applicable payment based on each hospital's performance
1389 on the applicable measures for each value-based payment
1390 methodology.

1391 (NEW) (l) Medicaid payments to hospitals shall be made only in
1392 compliance with federal law. If any Medicaid payments to hospitals
1393 are not eligible for federal financial participation, the Department of
1394 Social Services shall adjust payments to hospitals to the extent
1395 necessary to ensure that no Medicaid payments are made to hospitals
1396 that are not eligible for federal financial participation for all applicable
1397 payments and for all applicable time periods. No provision of this
1398 section or section 17b-239e, as amended by this act, shall be construed
1399 as requiring the Department of Social Services to make any Medicaid
1400 payments to hospitals that are not eligible for federal financial
1401 participation.

1402 Sec. 17. Section 17b-239e of the general statutes is repealed and the
1403 following is substituted in lieu thereof (*Effective July 1, 2019*):

1404 (a) On or before January 1, 2012, the Commissioner of Social
1405 Services, in consultation with the Commissioners of Public Health and
1406 Mental Health and Addiction Services and the Secretary of the Office
1407 of Policy and Management, shall submit to the joint standing
1408 committees of the General Assembly having cognizance of matters
1409 relating to human services and appropriations and the budgets of state
1410 agencies a plan concerning the implementation of a cost neutral acuity-
1411 based method for establishing rates to be paid to hospitals that is
1412 phased in over a period of time.

1413 (b) (1) Subject to federal approval, the Department of Social Services
1414 shall establish supplemental pools for certain hospitals, as determined
1415 by the department in consultation with the Connecticut Hospital
1416 Association, including, but not limited to, such pools as a
1417 supplemental inpatient pool, a supplemental outpatient pool, a
1418 supplemental small hospital pool, and a supplemental mid-size
1419 hospital pool. [The Department of Social Services shall publish the
1420 required public notice for all Medicaid state plan amendments
1421 necessary to establish the pools not later than fifteen days after passage
1422 of this section or December 1, 2017, whichever is sooner.

1423 (2) (A) For the fiscal year ending June 30, 2018, the amount of funds

1424 in the supplemental pools shall total in the aggregate five hundred
1425 ninety-eight million four hundred forty thousand one hundred thirty-
1426 eight dollars.

1427 (B) For the fiscal year ending June 30, 2019, the amount of funds in
1428 the supplemental pools shall total in the aggregate four hundred
1429 ninety-six million three hundred forty thousand one hundred thirty-
1430 eight dollars.

1431 (C) For the fiscal year ending June 30, 2020, the amount of funds in
1432 the supplemental pools shall total in the aggregate one hundred sixty-
1433 six million five hundred thousand dollars.]

1434 [(3)] (2) The department shall distribute supplemental payments to
1435 applicable hospitals based on criteria determined by the department in
1436 consultation with the Connecticut Hospital Association, including, but
1437 not limited to, utilization and proportion of total Medicaid
1438 expenditures. Such consultation shall include, at a minimum, that the
1439 department shall send proposed distribution criteria in writing to the
1440 Connecticut Hospital Association not less than thirty days before
1441 making any payments based on such criteria and shall provide an
1442 opportunity to discuss such criteria prior to making any payments
1443 based on such criteria. [except that, for the first twenty-five per cent
1444 of supplemental payments for the fiscal year ending June 30, 2018,
1445 such consultation shall include sending the distribution criteria not less
1446 than seven days before making any payments based on such criteria.

1447 (4) Subject to subdivision (1) of this subsection, for the fiscal years
1448 ending June 30, 2018, and June 30, 2019, the Department of Social
1449 Services shall make supplemental payments to applicable hospitals in
1450 accordance with the following schedule:

1451 (A) The first twenty-five per cent of supplemental payments for the
1452 fiscal year ending June 30, 2018, shall be made: (i) On or before
1453 November 30, 2017, for the supplemental inpatient pool and
1454 supplemental small hospital pool; (ii) thirty days after the effective
1455 date of this section, but not later than January 1, 2018, for the

1456 supplemental mid-size hospital pool; (iii) thirty days after the effective
1457 date of this section, but not later than January 1, 2018, for the
1458 supplemental outpatient pool; and (iv) not later than thirty days after
1459 submission of the Medicaid state plan amendments for such payments
1460 for any pool not set forth herein required to be established to comply
1461 with federal law. The department shall make each payment by the
1462 dates set forth in this subparagraph even if each applicable Medicaid
1463 state plan amendment approval has not yet been received from the
1464 Centers for Medicare and Medicaid Services, provided each payment
1465 remains subject to federal approval and may later be recovered if
1466 federal approval is not obtained.

1467 (B) The second twenty-five per cent of such supplemental payments
1468 shall be made on or before December 31, 2017, except that the
1469 department may delay such payments until fourteen days after
1470 receiving approval from the Centers for Medicare and Medicaid
1471 Services for the Medicaid state plan amendment or amendments
1472 necessary for the state to receive federal Medicaid funds for such
1473 supplemental payments.

1474 (C) The third twenty-five per cent of supplemental payments shall
1475 be made on or before March 31, 2018, even if each applicable Medicaid
1476 state plan amendment approval has not yet been received from the
1477 Centers for Medicare and Medicaid Services, provided each payment
1478 remains subject to federal approval and may later be recovered if
1479 federal approval is not obtained.

1480 (D) Supplemental payments for each subsequent twenty-five per
1481 cent of the supplemental payment for each of the fiscal years ending
1482 June 30, 2018, and June 30, 2019, shall be made in corresponding
1483 installments on or before the last day of March, June, September and
1484 December during each said fiscal year, except that the department may
1485 delay such payments until fourteen days after receiving approval from
1486 the Centers for Medicare and Medicaid Services for the Medicaid state
1487 plan amendment or amendments necessary for the state to receive
1488 federal Medicaid funds for such supplemental payments.]

1489 (c) Out of the aggregate amount of the supplemental pools
 1490 described in subsection (b) of this section, within available
 1491 appropriations, the following amounts shall be allocated based on each
 1492 hospital's performance on quality measures determined by the
 1493 Department of Social Services: Fifteen million dollars in the fiscal year
 1494 ending June 30, 2020, and forty-five million dollars for the fiscal year
 1495 ending June 30, 2021. Such allocations shall be made proportionally
 1496 from each of the supplemental pools established pursuant to
 1497 subsection (b) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2019	17b-104(b)
Sec. 2	July 1, 2019	17b-106(a)
Sec. 3	July 1, 2019	17b-340(j)
Sec. 4	July 1, 2019	17b-244
Sec. 5	July 1, 2019	New section
Sec. 6	July 1, 2019	17b-340(h)(1)
Sec. 7	July 1, 2019	17b-340(g)
Sec. 8	July 1, 2019	17b-340(f)(4)
Sec. 9	July 1, 2019	19a-545
Sec. 10	July 1, 2019	17b-352
Sec. 11	July 1, 2019	17b-353(d)
Sec. 12	from passage	New section
Sec. 13	July 1, 2020	17b-256f
Sec. 14	from passage	17b-238(a) and (b)
Sec. 15	from passage	17b-242
Sec. 16	July 1, 2019	17b-239
Sec. 17	July 1, 2019	17b-239e

Statement of Legislative Commissioners:

In Section 8, "are" was added before "not otherwise" and in Section 10(c) "this petition" was changed to "the petition" for clarity; and in Section 16(k)(1) and (2), the phrase "effective on or after July 1, 2019," was deleted for internal consistency with the effective date and clarity.

HS 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:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Social Services, Dept.	GF - Savings	21.2 million	54.8 million

Note: GF=General Fund

Municipal Impact: None

Explanation

Sections 1 and 2 freeze rate increases for the Temporary Family Assistance (TFA), State Administered General Assistance (SAGA), and supplemental assistance programs, resulting in savings to the Department of Social Services (DSS) of \$2.6 million in FY 20 and \$4.8 million in FY 21.

Sections 3-6 limit increases in rates paid to certain facilities, which is anticipated to result in savings of approximately \$1.7 million in FY 20 and \$3.7 million in FY 21.

Section 7 limits increases in rates paid to intermediate care facilities for individuals with intellectual disabilities (ICF-IDs) with certain exceptions, which is anticipated to result in savings of approximately \$790,000 in FY 20 and \$1.7 million in FY 21.

Section 8 limits increases in nursing home rates with certain exceptions, which is anticipated to result in savings of approximately \$14.4 million in FY 20 and \$30.6 million in FY 21.

Section 8 also rebases nursing home rates in FY 20 and eliminates the stop loss provision for nursing homes with low occupancy rates or low federal quality measure scores. This is anticipated to result in state

savings of \$2.4 million in FY 20 and \$2.9 million in FY 21. After factoring in the federal share, the total Medicaid savings is \$4.9 million in FY 20 and \$5.8 million in FY 21.

Sections 9-11 make changes to nursing home receivership and closure requirements. To the extent these changes result in a facility closing sooner than it otherwise would have, the state could experience a savings.

Section 12 prohibits covenants not to compete, which is not anticipated to result in a fiscal impact to the state.

Section 13 establishes an asset test at the federal minimum level under the Medicare Savings Program (MSP). This results in a net state cost of \$2.8 million in FY 20 and savings of \$8.7 million in FY 21.

In FY 20, funding supports nine positions to assist with ongoing asset verification requirements and IT upgrades for an asset verification system under ImpaCT. In FY 21, personnel and IT costs are offset by savings due to implementing an asset test (\$7,650 for individuals and \$11,340 for couples), effective July 1, 2020. The savings reflects the current cost of deductibles, coinsurance and copayments for those with income up to 211% FPL. In addition, less federal grants revenue will need to be diverted to cover the costs of premiums, resulting in additional revenue of \$16 million in FY 21. After considering the administrative costs, Medicaid savings, and federal grants revenue impact, the annualized net savings to the state is \$25.6 million.

Sections 14 and 15 make changes to the appeals process for certain rates by limiting a rehearing for items of aggrievement to those involving a provider-specific rate or as required by federal law. This will limit potential future state costs associated with rates that otherwise could have been aggrieved and revised under current law.

Section 16 establishes a reduction to the rates paid for hospital readmissions within 30 days for the same or similar diagnosis. This is

anticipated to result in state savings of approximately \$2 million in FY 20 and \$2.4 million in FY 21. After factoring in the federal share, this results in Medicaid program savings of \$6.1 million in FY 20 and \$7.3 million in FY 21.

Section 17 requires that \$15 million in FY 20 and \$45 million in FY 21 of supplemental payments to hospitals be proportionally distributed based on each hospital's performance on quality measures, as determined by DSS.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 7164****AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES.****SUMMARY**

This bill makes several unrelated changes to statutes affecting various human services programs in the Department of Social Services (DSS). Among other things, the bill freezes certain cash assistance benefit rates; caps rates paid to various institutional and residential facilities; and prohibits certain employer non-compete agreements. It also streamlines the process by which certain non-viable nursing homes may seek closure, institutes performance-based payment methodologies for nursing homes and hospitals, and limits or eliminates certain rate appeals under Medicaid.

The bill also makes minor and conforming changes.

EFFECTIVE DATE: July 1, 2019, except for provisions on homemaker-companion non-compete covenants and rate appeals, which are effective upon passage.

§ 1 — TEMPORARY FAMILY ASSISTANCE (TFA) AND STATE ADMINISTERED GENERAL ASSISTANCE (SAGA) RATES

Freezes TFA and SAGA rates

The bill extends through FY 21 a freeze on payment standards (i.e., benefits) for DSS's TFA and SAGA cash assistance programs at FY 15 rates.

TFA provides temporary cash assistance to families that meet certain income and asset limits. In general, SAGA provides cash assistance to single or married individuals who have low incomes; do not qualify for any other cash assistance program; and who are

temporarily unable to work due to medical reasons or qualify as unemployable.

§ 2 — STATE SUPPLEMENT PROGRAM (SSP) RATES

Freezes SSP rates

Generally, low-income people who are aged, blind, or have a disability can receive federal Supplemental Security Income (SSI) benefits if they meet certain financial eligibility requirements. The state supplements SSI benefits with SSP benefits for those who are eligible. To calculate the benefit, DSS subtracts from the beneficiary's income any applicable disregards and compares the difference to the program's payment standard. If the net income figure is less than the benefit, the person qualifies, and the benefit equals the difference between them.

The law generally requires the DSS commissioner to annually increase SSP payment standards based on the consumer price index within certain parameters. The bill extends the current freeze on these payment standards at FY 15 rates for the next two fiscal years (FYs 20 and 21).

§§ 3-5 — RESIDENTIAL CARE HOMES, COMMUNITY LIVING ARRANGEMENTS, AND COMMUNITY COMPANION HOMES

Freezes rates for certain facilities through FY 21

Under the bill, regardless of rate-setting laws or regulations to the contrary, the rates the state pays to residential care homes, community living arrangements, and community companion homes that receive the flat rate for residential services in FY 16 remain in effect through FY 21. State regulations permit these facilities to have their rates determined on a flat rate basis rather than on the basis of submitted cost reports (Conn. Agencies Regs. § 17-311-54).

§ 6 — RESIDENTIAL CARE HOMES

Authorizes certain fair rent increases for residential care homes in FYs 20 and 21

For both FY 20 and 21, the bill caps rates for residential care homes at FY 19 levels, with an exception for homes that receive certain

proportional fair rent increases. The bill allows the DSS commissioner to provide such increases within available appropriations to homes with documented fair rent additions placed in service in cost report years ending on September 30 in 2018 and 2019.

§§ 4 & 7 — INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES (ICF/IID) AND BOARDING HOMES

Freezes, with exceptions, rates for certain boarding homes and ICFs/IIDs

For FY 20 and FY 21, the bill generally freezes rates paid by DSS at FY 19 levels for (1) ICFs/IID and (2) room and board at private residential facilities and similar facilities operated by regional educational service centers that are licensed to provide residential care for individuals with certain disabilities (i.e., non-ICFs/IIDs boarding homes). Within available appropriations, the bill allows these rates to exceed the FY 19 level if capital improvements were (1) made in FY 20 or FY 21 for the health and safety of residents and (2) approved by the Department of Developmental Services (DDS) in consultation with DSS.

The bill also extends through FY 21 a provision allowing DSS to provide fair rent increases to any ICFs/IIDs with an approved certificate of need that undergo a material change in circumstances related to fair rent.

§ 8 — NURSING HOME RATES

Caps nursing home rates at FY 19 levels with certain exceptions

For FY 20, the bill requires DSS to determine Medicaid nursing facility rates based on 2018 cost reports, but it caps FY 20 and 21 rates at FY 19 levels with an exception for those facilities that receive DSS proportional fair rent increases. The bill allows the DSS commissioner to provide such increases within available appropriations, including to facilities that have undergone a material change in circumstance related to fair rent additions in the cost report years ending on September 30 in 2018 and 2019 and not otherwise included in issued rates.

For FY 20, the bill provides a stop-loss for facilities maintaining high occupancy levels and quality standards. Under the bill, no facility can receive a rate that is more than 2% less than its FY 19 rate if it has (1) an occupancy level of 70% or greater, as reported in its 2018 cost report; and (2) an overall rating on Medicare's Nursing Home Compare Internet website of more than one star on June 1, 2019 (see BACKGROUND).

§ 9 — NURSING HOME RECEIVERSHIP

Modifies requirements on nursing home receivers

The bill allows a nursing home receiver to spend up to \$10,000 (an increase of \$7,000 over current law) to correct a structural or furnishings deficiency that endangers the safety or health of its residents, but it retains existing law's authorization for courts to approve such expenses above \$3,000. (Presumably, a receiver would only apply for court approval of expenses over \$10,000.)

By law, a court may appoint a receiver for a nursing home facility (i.e., nursing home, residential care home, or rest home with 24-hour nursing supervision per CGS § 19a-490) if the home, among other things, is substantially unsafe or experiencing serious financial loss (CGS § 19a-543).

Under the bill, a receiver must determine whether the facility can continue to operate with existing income sources and provide adequate resident care in substantial compliance with applicable federal and state laws. The receiver must report to the court within his or her first 45 days of receivership, instead of six months under current law.

Additionally, current law requires a receiver to seek purchase proposals within the first six month of receivership. The bill requires a receiver to do so only for facilities found to be viable. The bill also requires receivers to immediately commence the closure process for facilities with less than 70% occupancy when the closure is consistent with the state's strategic rebalancing plan for long-term services and

supports (LTSS).

§§ 10 & 11 — VOLUNTARY FACILITY CLOSURES

Exempts certain nonviable facilities that are seeking to close from a public hearing requirement

Closure Petitions

The bill establishes a process for a financially distressed facility (i.e., ICF/IID, nursing home, rest home, or residential care home) that meets certain criteria to voluntarily petition DSS to authorize its closure. Under the bill, the department may authorize closure if the facility management's petition demonstrates to the commissioner's satisfaction that closing the facility is consistent with DSS' LTSS strategic rebalancing plan, which includes a review of regional nursing home bed capacity, and that the facility:

1. is not viable given actual and projected operating losses;
2. has an occupancy rate of less than 70% of its licensed bed capacity;
3. is in compliance with federal Medicaid and Medicare rules about quality assurance and program improvement, termination of facilities that immediately jeopardize health and safety, and closure notification; and
4. is not providing special services that would go unmet if closed.

The bill requires (1) DSS to review a closure petition to the extent it deems necessary and (2) the facility to submit any information the department requests to substantiate that the closure is consistent with the bill's provisions. DSS must grant or deny the petition within 30 days. The bill exempts facilities seeking to close under these provisions from a DPH public hearing requirement that existing law imposes on facilities that close or substantially reduce capacity.

Closure Notifications

The bill requires the facility to also do the following, at the same time as its closure petition submission to DSS: (1) notify the office of

the long-term care (LTC) ombudsman; (2) provide written notice to all patients, guardians, conservators, legally liable relatives, or other responsible parties; and (3) post such notice in a conspicuous facility location.

The facility's written notice must be accompanied by an informational letter, issued jointly by the office of the LTC ombudsman and the Department of Rehabilitation Services (DORS), on available patients' rights and services related to the facility's closure petition. The letter must also state the date and time that the LTC ombudsman and DPH will hold an informational session at the facility about patient rights and the closure petition process. (Presumably, this letter would be based upon a prewritten template; otherwise it is not clear that the ombudsman would have time to issue it.)

The notice must state:

1. the date the facility submitted the closure petition;
2. that DSS has the sole authority to grant or deny the petition and has up to 30 days to do so;
3. a brief description of the reason or reasons for submitting the petition;
4. that no patient shall be involuntarily transferred or discharged within, or from, a facility pursuant to state and federal law because of the petition filing and all patients have a right to appeal any proposed transfer or discharge; and
5. the name, mailing address, and telephone number of the offices of the LTC ombudsman and local legal aid.

§ 12 — HOME CARE SERVICES NONCOMPETE AGREEMENTS

Prohibits noncompete agreements for employees of home care service agencies

The bill prohibits a homemaker, companion, or home health services agency from enforcing a covenant not to compete (i.e., noncompete agreements) in its employment agreements with caregiver

staff members. The bill defines a “covenant not to compete” as any contract or agreement that restricts the right of an individual to provide these services (1) in any geographic area of the state for any period of time or (2) to a specific individual. Under the bill, these contract provisions are void and unenforceable (see BACKGROUND).

§ 13 — MEDICARE SAVINGS PROGRAM ASSET TEST

Implements an eligibility asset test for the Medicare savings program

The bill reduces eligibility for the Medicare Savings Program (MSP) as of July 1, 2020, by requiring the DSS commissioner to apply an asset test in accordance with federal Medicaid regulations. (Federal law sets certain requirements for states’ programs that choose to determine program eligibility based, in part, on an individual’s assets.) MSP program participants get help from the state's Medicaid program with their Medicare cost sharing, including with premiums and deductibles.

§§ 14 & 15 — MEDICAID RATE ESTABLISHMENT AND APPEALS

Eliminates annual hospital rate establishment; limits right to appeal to certain Medicaid rates

The bill eliminates the requirement that the DSS commissioner annually establish Medicaid rates for hospitals. Additionally, it limits the right to appeal established Medicaid rates and certain actions.

By law, health care facilities can appeal the Medicaid rates DSS sets for them, and DSS must hold “rehearings.” Currently, if the issue is not resolved at a rehearing, either DSS or the facility can request binding arbitration (CGS § 17b-238(b)). The bill removes this right to appeal Medicaid rates for aggrieved institutions and agencies (e.g., hospitals, home health care agencies, homemaker home health agencies, and federally qualified health centers).

Conversely, the bill authorizes certain aggrieved Medicaid providers to appeal (1) a provider-specific rate established by DSS and (2) an action taken by DSS for which an appeal is required under federal regulations (i.e., nursing facility or ICFs/IIDs appeals). It provides the same deadlines for the appeals process as under current law for appeals by institutions and agencies (i.e., a hearing within 30

days and a decision within 60 days). Under the bill, a provider-specific rate does not include any rate or payment methodology that applies to more than one provider or statewide to any provider category.

Under current law, DSS may implement policies and procedures about Medicaid rates and reimbursements to home health care and homemaker-health aide providers while in the process of adopting regulations, as long as it publishes notice of its intent to adopt the regulations in the Connecticut Law Journal no later than 20 days after implementing the policies and procedures. Such policies and procedures are invalid after nine months. The bill (1) requires DSS to instead post the notice on its website and the state's eRegulations system and (2) removes the nine-month sunset provision on policies and procedures.

§§ 16 & 17 — HOSPITAL PERFORMANCE-BASED PAYMENTS

Requires hospital rates and supplemental payments to incorporate value-based methodologies

The bill requires the DSS commissioner to implement one or more value-based payment methodologies in order to improve health outcomes and reduce unnecessary costs and allows him, if necessary, to phase them in over time. It requires each applicable hospital rate and supplemental payment methodology designated by the commissioner to incorporate each value-based payment methodology established under the bill, including structuring applicable payments based on each hospital's performance on the applicable measures.

Under the bill, such payment methodologies may include methods designed to:

1. reduce inpatient hospital readmissions;
2. reduce unnecessary caesarian section deliveries, take appropriate actions to reduce preterm deliveries, and improve obstetrical care outcomes;
3. address outpatient infusions involving high-cost medications by

implementing performance-based payments; and

4. implement other such policies as determined by the commissioner.

The bill also requires the commissioner to reduce the total applicable rate payments by 15% for each readmission of an individual who was discharged from an applicable hospital for the same or similar diagnosis or diagnoses within 30 days from the date of such discharge.

The bill requires Medicaid payments to hospitals to be in compliance with federal law. It requires DSS to adjust hospital Medicaid payments to ensure that no payments are made to hospitals that are not eligible for federal matching funds for all applicable payments and time periods (e.g., payments that exceed the federal upper payment limit (UPL) would be ineligible for federal matching funds).

Within available appropriations, the bill allocates \$15 million in FY 20, and \$45 million for FY 21 in budgeted supplemental payments to be distributed proportionally based on each hospital's performance on DSS-established quality measures. The bill eliminates the requirement under current law that the supplemental pools contain \$166.5 million for FY 20.

It also deletes obsolete FY 18 and 19 payment amounts and a notice requirement.

BACKGROUND

Nursing Home Compare Website (§ 8)

Recently, the Centers for Medicare and Medicaid Services (CMS) have publicly reported the rates at which nursing home patients are readmitted to the hospital within one month. These hospital readmission rates are now available on CMS's Nursing Home Compare website, which evaluates nursing home quality of care based on a five-star rating system. Starting in October 2018, nursing homes

with high re-hospitalization rates will lose 2% of their Medicare reimbursements, and higher-performing nursing homes will receive additional funds.

Noncompete Agreements in Connecticut (§ 12)

Connecticut law currently prohibits certain noncompete agreements between an employer and (1) an employee working as a security guard (CGS § 31-50a) and (2) a broadcast employee (CGS § 31-50b).

In determining the validity of noncompete agreements, Connecticut courts generally consider the following five factors: (1) length of time of the restriction, (2) geographic scope of the restriction, (3) fairness of the protection provided to the employer, (4) extent to which the noncompete restricts the employee from pursuing his or her occupation, and (5) public interest (*Branson Ultrasonics Corp. v. Stratman*, 921 F. Supp. 909 (D. Conn. 1996)).

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 11 Nay 7 (03/21/2019)