



General Assembly

January Session, 2021

***Raised Bill No. 922***

LCO No. 3621



Referred to Committee on PUBLIC HEALTH

Introduced by:  
(PH)

***AN ACT CONCERNING REVISIONS TO THE STATUTES PERTAINING TO DISCHARGES IN A RESIDENTIAL CARE HOME.***

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

1 Section 1. Section 19a-535a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) As used in this section: [ a "facility" ]

4 (1) "Facility" means a residential care home, as defined in section 19a-  
5 490;

6 (2) "Emergency" means a situation in which a resident of a facility  
7 presents an imminent danger to his or her own health or safety, the  
8 health or safety of another resident or the health or safety of an  
9 employee or the owner of the facility;

10 (3) "Department" means the Department of Public Health; and

11 (4) "Commissioner" means the Commissioner of Public Health, or the  
12 commissioner's designee.

13 (b) A facility shall not transfer or discharge a resident from the facility  
14 unless (1) the transfer or discharge is necessary to meet the resident's  
15 welfare and the resident's welfare cannot be met in the facility, (2) the  
16 transfer or discharge is appropriate because the resident's health has  
17 improved sufficiently so the resident no longer needs the services  
18 provided by the facility, (3) the health or safety of individuals in the  
19 facility is endangered, (4) the resident has failed, after reasonable and  
20 appropriate notice, to pay for a stay or a requested service [.] at the  
21 facility, or (5) the facility ceases to operate. In the case of an involuntary  
22 transfer or discharge, the facility shall provide written notice to the  
23 resident and, if known, [his] the resident's legally liable relative,  
24 guardian or conservator [shall be given a thirty-day written notification  
25 which includes] at least thirty days prior to the proposed discharge date,  
26 except when the facility has requested an immediate transfer or  
27 discharge in accordance with subsection (e) of this section. Such notice  
28 shall include the reason for the transfer or discharge, [and notice of] the  
29 effective date of the discharge, the right of the resident to appeal a  
30 transfer or discharge by the facility pursuant to subsection (d) of this  
31 section and the resident's right to represent himself or herself or be  
32 represented by legal counsel. Such notice shall be in a form and manner  
33 prescribed by the commissioner, as modified from time to time, and  
34 shall include the name, mailing address and telephone number of the  
35 State Long-Term Care Ombudsman and be sent by facsimile or  
36 electronic communication to the Office of the Long-Term Care  
37 Ombudsman on the same day as the notice is given to the resident. If  
38 the facility knows the resident has, or the facility alleges that the resident  
39 has, a mental illness or an intellectual disability, the notice shall also  
40 include the name, mailing address and telephone number of the entity  
41 designated by the Governor in accordance with section 46a-10b to serve  
42 as the Connecticut protection and advocacy system. No resident shall  
43 be involuntarily transferred or discharged from a facility if such transfer  
44 or discharge presents imminent danger of death to the resident.

45 (c) The facility shall be responsible for assisting the resident in finding  
46 [appropriate placement] an alternative residence. A discharge plan,

47 prepared by the facility, [which indicates] in a form and manner  
48 prescribed by the commissioner, as modified from time to time, shall  
49 include the resident's individual needs and shall [accompany the  
50 patient] be submitted to the resident not later than seven days after the  
51 notice of discharge is issued to the resident. The facility shall submit the  
52 discharge plan to the commissioner at or before the hearing held  
53 pursuant to subsection (d) of this section.

54 (d) (1) [For transfers or discharges effected on or after October 1, 1989,  
55 a] A resident or [his] the resident's legally liable relative, guardian or  
56 conservator who has been notified by a facility, pursuant to subsection  
57 (b) of this section, that [he] the resident will be transferred or discharged  
58 from the facility may appeal such transfer or discharge to the  
59 Commissioner of Public Health by filing a request for a hearing with the  
60 commissioner [within] not later than ten days [of] after the receipt of  
61 such notice. Upon receipt of any such request, the commissioner [or his  
62 designee] shall hold a hearing to determine whether the transfer or  
63 discharge is being effected in accordance with this section. Such a  
64 hearing shall be held [within] not later than seven business days [of]  
65 after the receipt of such request. [and a determination made by the] The  
66 commissioner [or his designee within] shall issue a decision not later  
67 than twenty days [of the termination of] after the closing of the hearing  
68 record. The hearing shall be conducted in accordance with chapter 54.

69 [(2) In an emergency the facility may request that the commissioner  
70 make a determination as to the need for an immediate transfer or  
71 discharge of a resident. Before making such a determination, the  
72 commissioner shall notify the resident and, if known, his legally liable  
73 relative, guardian or conservator. The commissioner shall issue such a  
74 determination no later than seven days after receipt of the request for  
75 such determination. If, as a result of such a request, the commissioner or  
76 his designee determines that a failure to effect an immediate transfer or  
77 discharge would endanger the health, safety or welfare of the resident  
78 or other residents, the commissioner or his designee shall order the  
79 immediate transfer or discharge of the resident from the facility. A  
80 hearing shall be held in accordance with the requirements of

81 subdivision (1) of this subsection within seven business days of the  
82 issuance of any determination issued pursuant to this subdivision.

83 (3) Any involuntary transfer or discharge shall be stayed pending a  
84 determination by the commissioner or his designee. Notwithstanding  
85 any provision of the general statutes, the determination of the  
86 commissioner or his designee after a hearing shall be final and binding  
87 upon all parties and not subject to any further appeal.]

88 (2) Any involuntary transfer or discharge that is appealed under this  
89 subsection shall be stayed pending a final determination by the  
90 commissioner.

91 (3) The commissioner shall send a copy of his or her decision  
92 regarding a transfer or discharge to the facility, the resident and the  
93 resident's legal guardian, conservator or other authorized  
94 representative, if known, or the resident's legally liable relative or other  
95 responsible party, and the State Long-Term Care Ombudsman.

96 (e) (1) In the case of an emergency, the facility may request that the  
97 commissioner make a determination as to the need for an immediate  
98 transfer or discharge of a resident by submitting a sworn affidavit  
99 attesting to the basis for the emergency transfer or discharge. The facility  
100 shall provide a copy of the request for an immediate transfer or  
101 discharge to the resident and the notice described in subsection (b) of  
102 this section. After receipt of such request, the commissioner may issue  
103 an order for the immediate temporary transfer or discharge of the  
104 resident from the facility. The temporary order shall remain in place  
105 until a final decision is issued by the commissioner, unless earlier  
106 rescinded. The commissioner shall issue the determination as to the  
107 need for an immediate transfer or discharge of a resident not later than  
108 seven days after receipt of the request from the facility. A hearing shall  
109 be held not later than seven business days after the determination issued  
110 pursuant to this section. The commissioner shall issue a decision not  
111 later than twenty days after the closing of the hearing record. The  
112 hearing shall be conducted in accordance with the provisions of chapter

113 54.

114 (2) The commissioner shall send a copy of his or her decision  
115 regarding an emergency transfer or discharge to the facility, the resident  
116 and the resident's legal guardian, conservator or other authorized  
117 representative, if known, or the resident's legally liable relative or other  
118 responsible party and the State Long-Term Care Ombudsman.

119 (3) If the commissioner determines, based upon the request, that an  
120 emergency does not exist, the commissioner shall proceed with a  
121 hearing in accordance with the provisions of subsection (d) of this  
122 section.

123 (f) A facility or resident who is aggrieved by a final decision of the  
124 commissioner may appeal to the Superior Court in accordance with the  
125 provisions of chapter 54. Pursuant to subsection (f) of section 4-183, the  
126 filing of an appeal to the Superior Court shall not, of itself, stay  
127 enforcement of an agency decision. The Superior Court shall consider  
128 an appeal from a decision of the commissioner pursuant to this section  
129 as a privileged case in order to dispose of the case with the least possible  
130 delay.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	19a-535a

**Statement of Purpose:**

To allow residential care homes to qualify as home and community based settings under the regulations of the Center for Medicare and Medicaid Services.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*