



Substitute Senate Bill No. 975

Public Act No. 21-55

AN ACT STRENGTHENING THE BILLS OF RIGHTS FOR LONG-TERM CARE RESIDENTS AND AUTHORIZING THE USE OF RESIDENT TECHNOLOGY FOR VIRTUAL VISITATION AND VIRTUAL MONITORING.

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

Section 1. Subsection (b) of section 19a-550 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(b) There is established a patients' bill of rights for any person admitted as a patient to any nursing home facility, residential care home or chronic disease hospital. The patients' bill of rights shall be implemented in accordance with the provisions of Sections 1919(b), 1919(c), 1919(c)(2), 1919(c)(2)(D) and 1919(c)(2)(E) of the Social Security Act. The patients' bill of rights shall provide that each such patient: (1) Is entitled to treat his or her living quarters as his or her home and, subject to rules designed to protect the privacy, health and safety of other patients at a nursing home facility, residential care home or chronic disease hospital, has no fewer rights than any other resident of the state, including, but not limited to (A) associating and communicating privately with persons of the patient's choice, and (B) purchasing and using technology of the patient's choice, including, but

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not limited to, technology that may facilitate virtual visitation with family and other persons, provided operation and use of such technology shall not violate any individual's right to privacy under state or federal law; (2) is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of admission and during the patient's stay, of the rights set forth in this section and of all rules and regulations governing patient conduct and responsibilities; [(2)] (3) is fully informed, prior to or at the time of admission and during the patient's stay, of services available in such facility or chronic disease hospital, and of related charges including any charges for services not covered under Titles XVIII or XIX of the Social Security Act, or not covered by basic per diem rate; [(3)] (4) in such facility or hospital is entitled to choose the patient's own physician or advanced practice registered nurse and is fully informed, by a physician or an advanced practice registered nurse, of the patient's medical condition unless medically contraindicated, as documented by the physician or advanced practice registered nurse in the patient's medical record, and is afforded the opportunity to participate in the planning of the patient's medical treatment and to refuse to participate in experimental research; [(4)] (5) in a residential care home or a chronic disease hospital is transferred from one room to another within such home or chronic disease hospital only for medical reasons, or for the patient's welfare or that of other patients, as documented in the patient's medical record and such record shall include documentation of action taken to minimize any disruptive effects of such transfer, except a patient who is a Medicaid recipient may be transferred from a private room to a nonprivate room, provided no patient may be involuntarily transferred from one room to another within such home or chronic disease hospital if (A) it is medically established that the move will subject the patient to a reasonable likelihood of serious physical injury or harm, or (B) the patient has a prior established medical history of psychiatric problems and there is psychiatric testimony that as a consequence of the proposed move there will be exacerbation of the psychiatric problem that would

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last over a significant period of time and require psychiatric intervention; and in the case of an involuntary transfer from one room to another within such home or chronic disease hospital, the patient and, if known, the patient's legally liable relative, guardian or conservator or a person designated by the patient in accordance with section 1-56r, is given not less than thirty days' and not more than sixty days' written notice to ensure orderly transfer from one room to another within such home or chronic disease hospital, except where the health, safety or welfare of other patients is endangered or where immediate transfer from one room to another within such home or chronic disease hospital is necessitated by urgent medical need of the patient or where a patient has resided in such home or chronic disease hospital for less than thirty days, in which case notice shall be given as many days before the transfer as practicable; [(5)] (6) is encouraged and assisted, throughout the patient's period of stay, to exercise the patient's rights as a patient and as a citizen, and to this end, has the right to (A) be fully informed about patients' rights by state or federally funded patient advocacy programs, [and may voice grievances and recommend changes in policies and services to nursing home facility, residential care home or chronic disease hospital staff or to outside representatives of the patient's choice, free from restraint, interference, coercion, discrimination or reprisal; (6)] (B) present grievances and recommend changes in policies, procedures and services to the manager or staff of the nursing home facility, residential care home or chronic disease hospital, government officials or any other person without restraint, interference, coercion, discrimination or reprisal from the nursing home facility, residential care home or chronic disease hospital, and (C) access to representatives of the Department of Public Health or the Office of the Long-Term Care Ombudsman; (7) shall have prompt efforts made by such nursing home facility, residential care home or chronic disease hospital to resolve grievances the patient may have, including those with respect to the behavior of other patients; [(7)] (8) may manage the patient's personal financial affairs, and is given a quarterly accounting

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of financial transactions made on the patient's behalf; [(8)] (9) is free from mental and physical abuse, corporal punishment, involuntary seclusion and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the patient's medical symptoms. Physical or chemical restraints may be imposed only to ensure the physical safety of the patient or other patients and only upon the written order of a physician or an advanced practice registered nurse that specifies the type of restraint and the duration and circumstances under which the restraints are to be used, except in emergencies until a specific order can be obtained; [(9)] (10) is assured confidential treatment of the patient's personal and medical records, and may approve or refuse their release to any individual outside the facility, except in case of the patient's transfer to another health care institution or as required by law or third-party payment contract; [(10)] (11) receives quality care and services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual would be endangered, and is treated with consideration, respect, and full recognition of the patient's dignity and individuality, including privacy in treatment and in care for the patient's personal needs; [(11)] (12) is not required to perform services for the nursing home facility, residential care home or chronic disease hospital that are not included for therapeutic purposes in the patient's plan of care; [(12)] may associate and communicate privately with persons of the patient's choice, including other patients,] (13) (A) may send and receive the patient's personal mail unopened and make and receive telephone calls privately, unless medically contraindicated, as documented by the patient's physician or advanced practice registered nurse in the patient's medical record, and (B) receives adequate notice before the patient's room or roommate in such facility, home or chronic disease hospital is changed; [(13)] (14) is entitled to organize and participate in patient groups in such facility, home or chronic disease hospital and to participate in social, religious and community activities that do not interfere with the rights of other patients, unless medically

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contraindicated, as documented by the patient's physician or advanced practice registered nurse in the patient's medical records; [(14)] (15) may retain and use the patient's personal clothing and possessions unless to do so would infringe upon rights of other patients or unless medically contraindicated, as documented by the patient's physician or advanced practice registered nurse in the patient's medical record; [(15)] (16) is assured privacy for visits by the patient's spouse or a person designated by the patient in accordance with section 1-56r and, if the patient is married and both the patient and the patient's spouse are inpatients in the facility, they are permitted to share a room, unless medically contraindicated, as documented by the attending physician or advanced practice registered nurse in the medical record; [(16)] (17) is fully informed of the availability of and may examine all current state, local and federal inspection reports and plans of correction; [(17)] (18) may organize, maintain and participate in a patient-run resident council, as a means of fostering communication among residents and between residents and staff, encouraging resident independence and addressing the basic rights of nursing home facility, residential care home and chronic disease hospital patients and residents, free from administrative interference or reprisal; [(18)] (19) is entitled to the opinion of two physicians concerning the need for surgery, except in an emergency situation, prior to such surgery being performed; [(19)] (20) is entitled to have the patient's family or a person designated by the patient in accordance with section 1-56r meet in such facility, residential care home or chronic disease hospital with the families of other patients in the facility to the extent such facility, residential care home or chronic disease hospital has existing meeting space available that meets applicable building and fire codes; [(20)] (21) is entitled to file a complaint with the Department of Social Services and the Department of Public Health regarding patient abuse, neglect or misappropriation of patient property; [(21)] (22) is entitled to have psychopharmacologic drugs administered only on orders of a physician or an advanced practice registered nurse and only as part of a written plan of care

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developed in accordance with Section 1919(b)(2) of the Social Security Act and designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually, an independent external consultant reviews the appropriateness of the drug plan; [(22)] (23) is entitled to be transferred or discharged from the facility only pursuant to section 19a-535, 19a-535a or 19a-535b, as applicable; [(23)] (24) is entitled to be treated equally with other patients with regard to transfer, discharge and the provision of all services regardless of the source of payment; [(24)] (25) shall not be required to waive any rights to benefits under Medicare or Medicaid or to give oral or written assurance that the patient is not eligible for, or will not apply for benefits under Medicare or Medicaid; [(25)] (26) is entitled to be provided information by the nursing home facility or chronic disease hospital as to how to apply for Medicare or Medicaid benefits and how to receive refunds for previous payments covered by such benefits; [(26)] (27) is entitled to receive a copy of any Medicare or Medicaid application completed by a nursing home facility, residential care home or chronic disease hospital on behalf of the patient or to designate that a family member, or other representative of the patient, receive a copy of any such application; [(27)] (28) on or after October 1, 1990, shall not be required to give a third-party guarantee of payment to the facility as a condition of admission to, or continued stay in, such facility; [(28)] (29) is entitled to have such facility not charge, solicit, accept or receive any gift, money, donation, third-party guarantee or other consideration as a precondition of admission or expediting the admission of the individual to such facility or as a requirement for the individual's continued stay in such facility; and [(29)] (30) shall not be required to deposit the patient's personal funds in such facility, home or chronic disease hospital.

Sec. 2. Subsection (a) of section 19a-697 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

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(a) A managed residential community shall have a written bill of rights that prescribes the rights afforded to each resident. A designated staff person from the managed residential community shall provide and explain the bill of rights to the resident at the time that such resident enters into a residency agreement at the managed residential community. The bill of rights shall include, but not be limited to, that each resident has the right to:

(1) Live in a clean, safe and habitable private residential unit;

(2) Be treated with consideration, respect and due recognition of personal dignity, individuality and the need for privacy;

(3) Privacy within a private residential unit, subject to rules of the managed residential community reasonably designed to promote the health, safety and welfare of the resident;

(4) Retain and use one's own personal property within a private residential unit so as to maintain individuality and personal dignity provided the use of personal property does not infringe on the rights of other residents or threaten the health, safety and welfare of other residents;

(5) [Private] Treat his or her residential unit as his or her home and has no fewer rights than any other resident of the state, including, but not limited to, (A) associating and communicating privately with persons of the resident's choice, (B) purchasing and using technology of the resident's choice, including, but not limited to, technology that may facilitate virtual visitation with family and other persons, provided operation and use of such technology shall not violate any individual's right to privacy under state or federal law, and (C) engaging in other private communications, including receiving and sending unopened correspondence [] and telephone access; [and visiting with persons of one's choice;]

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(6) Freedom to participate in and benefit from community services and activities so as to achieve the highest possible level of independence, autonomy and interaction within the community;

(7) Directly engage or contract with licensed health care professionals and providers of one's choice to obtain necessary health care services in one's private residential unit, or such other space in the managed residential community as may be made available to residents for such purposes;

(8) Manage one's own financial affairs;

(9) Exercise civil and religious liberties;

(10) Present grievances and recommend changes in policies, procedures and services to the manager or staff of the managed residential community, government officials or any other person without restraint, interference, coercion, discrimination or reprisal from the managed residential community, including access to representatives of the department or the Office of the Long-Term Care Ombudsman;

(11) Upon request, obtain from the managed residential community the name of the service coordinator or any other persons responsible for resident care or the coordination of resident care;

(12) Confidential treatment of all records and communications to the extent required by state and federal law;

(13) Have all reasonable requests responded to promptly and adequately within the capacity of the managed residential community and with due consideration given to the rights of other residents;

(14) Be fully advised of the relationship that the managed residential community has with any assisted living services agency, health care facility or educational institution to the extent that such relationship

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relates to resident medical care or treatment and to receive an explanation about the relationship;

(15) Receive a copy of any rules or regulations of the managed residential community;

(16) Privacy when receiving medical treatment or other services within the capacity of the managed residential community;

(17) Refuse care and treatment and participate in the planning for the care and services the resident needs or receives, provided the refusal of care and treatment may preclude the resident from being able to continue to reside in the managed residential community; and

(18) All rights and privileges afforded to tenants under title 47a.

Sec. 3. (NEW) (*Effective October 1, 2021*) (a) For purposes of this section:

(1) "Nursing home facility" has the same meaning as provided in section 19a-490 of the general statutes;

(2) "Resident" means a resident of a nursing home facility;

(3) "Resident representative" means (A) a court-appointed conservator of the person or guardian, (B) a health care representative appointed pursuant to section 19a-575a of the general statutes, or (C) if there is no court-appointed conservator of the person or guardian, or health care representative, a person who is (i) designated in a written document signed by the resident and included in the resident's records on file with the facility, or (ii) if there is no such written document, a person who is a legally liable relative or other responsible party, provided such person is not an employer or contractor of the facility;

(4) "Technology" means a device capable of remote audio or video communications that may include recording capabilities;

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(5) "Virtual monitoring" means remote monitoring of a resident by a third party via technology owned and operated by the resident in the resident's room or living quarters; and

(6) "Virtual visitation" means remote visitation between a resident and family members or other persons with technology.

(b) A resident shall have the right to use technology of the resident's choice that facilitates virtual monitoring or virtual visitation, provided:

(1) The purchase, activation, installation, maintenance, repair, operation, deactivation and removal of such technology is at the expense of the resident;

(2) The technology and any recordings and images obtained therefrom are used by the resident and any person communicating with the resident or monitoring the resident in a manner that does not violate any individual's right to privacy under state or federal law and in accordance with the provisions of this section;

(3) A clear and conspicuous notice is placed on the door of the resident's room or living unit indicating that technology enabling virtual monitoring and intended for such use may be in use;

(4) In cases where the resident intends to use technology for virtual monitoring in shared living situations, the resident or resident representative provides advance notice to a roommate or the roommate's representative specifying the type of technology, the proposed location of the device, its intended use, intended hours of operation and whether the device is capable of recording audio or video or being activated remotely;

(5) The resident or resident representative (A) obtains the written consent of all roommates or resident representatives of all roommates for the use of the technology for virtual monitoring, and (B) if any

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roommate withdraws consent, ceases using the technology for virtual monitoring until consent is obtained; and

(6) The resident or resident representative files a signed, written notice with the nursing home facility and a copy of any written consent of any roommate not less than seven days before installing or using such technology for virtual monitoring that (A) identifies the type of technology, its intended use, intended hours of operation and location of such technology in the room or living quarters, (B) states whether the technology is capable of recording audio or video or being activated or controlled remotely, (C) acknowledges that the resident is responsible for the purchase, activation, installation, maintenance, repair, operation, deactivation and removal of such technology, and (D) includes a waiver of all civil, criminal and administrative liability for the nursing home facility in accordance with subsection (d) of this section.

Except for the provisions of subdivision (2) of this subsection, the provisions of this subsection shall not apply to cellular mobile telephones used primarily for telephonic communication or tablets not used for virtual monitoring. If a roommate withdraws consent for the use of technology for virtual monitoring, a resident or resident representative shall inform the facility, in writing, not later than seven days after the roommate withdraws consent.

(c) (1) A nursing home facility shall provide Internet access, electricity and a power source for technology used for virtual monitoring or virtual visitation at no cost to a resident, provided (A) a nursing home facility includes the cost of providing Internet access in cost reports filed with the Department of Social Services for purposes of Medicaid reimbursement, (B) the cost is reimbursed to the facility if the department determines that such cost is eligible for reimbursement pursuant to section 17b-340 of the general statutes, (C) the Commissioner of Social Services uses any available funding provided by the federal government to the state and authorized by the federal

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government for expenses related to COVID-19 at nursing home facilities to provide grants-in-aid to such facilities for such upgrades, provided such use is approved by the federal government, and (D) a nursing home facility may assess a prorated portion of any unreimbursed cost of such upgrades to any resident privately paying for a residence in such facility and using such technology. A resident may also procure his or her own Internet connectivity. A private-paying resident who procures his or her own Internet connectivity shall not be charged for the cost of any Internet infrastructure upgrades by the nursing home facility necessary for residents to use such technology.

(2) A nursing home facility may establish policies and procedures on the use of technology for virtual monitoring addressing (A) except for cellular mobile telephones used primarily for telephonic communication or tablets not used for virtual monitoring, placement of any technology device in a conspicuously visible, stationary location in the resident's room or living quarters, (B) restrictions on use of the technology to record video or audio outside the resident's room or living quarters or in any shared common space, (C) compliance with applicable federal, state and local life safety and fire protection requirements, (D) limitations on use of technology for virtual monitoring when such use will interfere with resident care or privacy unless the resident, a roommate of the resident, or his or her resident representative, consents to such use, (E) the ability to limit use of technology in the event of a disruption to the facility's Internet service, and (F) actions that the nursing home facility may take for failure to comply with applicable federal, state and local laws or facility policy in the use of technology and the process by which a resident may appeal such actions.

(d) A nursing home facility shall be immune from any civil, criminal or administrative liability for any (1) violation of privacy rights of any individual under state or federal law caused by a resident's use of

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technology; (2) damage to the resident's technology, including, but not limited to, malfunction not caused by the negligence of the nursing home facility; and (3) instance when audio or video produced by the resident's technology is inadvertently or intentionally disclosed to, intercepted or used by an unauthorized third party.

(e) A nursing home facility shall place a conspicuous notice (1) at the entrance to the facility indicating that technology enabling virtual monitoring or virtual visitation may be in use in some residents' rooms or living quarters; and (2) except for cellular mobile telephones used primarily for telephonic communication or tablets not used for virtual monitoring, on the door of any resident's room or living quarters where such technology may be used for virtual monitoring. In cases where any roommate of a resident refuses to give consent for use of technology for virtual monitoring that may capture audio or video of the roommate, a nursing home facility shall work with both the resident and the roommate to seek an acceptable accommodation for use of the technology with the roommate's consent. If the roommate continues to refuse consent, the nursing home facility shall work with the resident wishing to use such technology to develop an alternative, including transfer to another room with a roommate who consents to use of the technology, provided an appropriate room is available and the resident is able to pay any difference in price if the new room is more costly than the resident's current room.

(f) The Office of the Long-Term Care Ombudsman may provide standard forms on its Internet web site for (1) notice by a resident to a nursing home facility of the resident's plan to install and use technology of his or her choice for virtual monitoring; (2) consent forms for any roommate of a resident who wishes to use technology for virtual monitoring that may capture audio or video of the roommate; and (3) forms for a resident or resident representative to notify the facility that a roommate has withdrawn consent for use of technology for virtual

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monitoring. The Office of the Long-Term Care Ombudsman shall develop such standard forms in consultation with nursing home facility representatives and the Department of Public Health.

(g) The Commissioner of Public Health may adopt regulations in accordance with the provisions of chapter 54 of the general statutes to implement the provisions of this section.

Approved June 16, 2021