



General Assembly

Amendment

January Session, 2021

LCO No. 8481



Offered by:

SEN. MILLER P., 27th Dist.
REP. PHIPPS, 100th Dist.
SEN. KELLY, 21st Dist.
SEN. LOONEY, 11th Dist.
SEN. DUFF, 25th Dist.

SEN. COHEN, 12th Dist.
SEN. HASKELL, 26th Dist.
SEN. MCCRORY, 2nd Dist.
SEN. MOORE, 22nd Dist.
SEN. WINFIELD, 10th Dist.

To: Subst. Senate Bill No. 975

File No. 193

Cal. No. 155

"AN ACT STRENGTHENING THE BILL OF RIGHTS FOR LONG-TERM CARE FACILITY RESIDENTS."

1 Strike lines 77 and 78 in their entirety and insert the following in lieu
2 thereof: "to representatives of the Department of Public Health or the
3 Office of the Long-Term Care Ombudsman; (7)"

4 After the last section, add the following and renumber sections and
5 internal references accordingly:

6 "Sec. 501. (NEW) (*Effective October 1, 2021*) (a) For purposes of this
7 section:

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

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

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

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

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

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

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

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

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

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

40 (4) In cases where the resident intends to use technology for virtual

41 monitoring in shared living situations, the resident or resident
42 representative provides advance notice to a roommate or the
43 roommate's representative specifying the type of technology, the
44 proposed location of the device, its intended use, intended hours of
45 operation and whether the device is capable of recording audio or video
46 or being activated remotely;

47 (5) The resident or resident representative (A) obtains the written
48 consent of all roommates or resident representatives of all roommates
49 for the use of the technology for virtual monitoring, and (B) if any
50 roommate withdraws consent, ceases using the technology for virtual
51 monitoring until consent is obtained; and

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

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

71 (c) (1) A nursing home facility shall provide Internet access, electricity
72 and a power source for technology used for virtual monitoring or virtual

73 visitation at no cost to a resident, provided (A) a nursing home facility
74 includes the cost of providing Internet access in cost reports filed with
75 the Department of Social Services for purposes of Medicaid
76 reimbursement, (B) the cost is reimbursed to the facility if the
77 department determines that such cost is eligible for reimbursement
78 pursuant to section 17b-340 of the general statutes, (C) the
79 Commissioner of Social Services uses any available funding provided
80 by the federal government to the state and authorized by the federal
81 government for expenses related to COVID-19 at nursing home facilities
82 to provide grants-in-aid to such facilities for such upgrades, provided
83 such use is approved by the federal government, and (D) a nursing
84 home facility may assess a prorated portion of any unreimbursed cost
85 of such upgrades to any resident privately paying for a residence in such
86 facility and using such technology. A resident may also procure his or
87 her own Internet connectivity. A private-paying resident who procures
88 his or her own Internet connectivity shall not be charged for the cost of
89 any Internet infrastructure upgrades by the nursing home facility
90 necessary for residents to use such technology.

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

107 the use of technology and the process by which a resident may appeal
108 such actions.

109 (d) A nursing home facility shall be immune from any civil, criminal
110 or administrative liability for any (1) violation of privacy rights of any
111 individual under state or federal law caused by a resident's use of
112 technology; (2) damage to the resident's technology, including, but not
113 limited to, malfunction not caused by the negligence of the nursing
114 home facility; and (3) instance when audio or video produced by the
115 resident's technology is inadvertently or intentionally disclosed to,
116 intercepted or used by an unauthorized third party.

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

135 (f) The Office of the Long-Term Care Ombudsman may provide
136 standard forms on its Internet web site for (1) notice by a resident to a
137 nursing home facility of the resident's plan to install and use technology
138 of his or her choice for virtual monitoring; (2) consent forms for any
139 roommate of a resident who wishes to use technology for virtual

140 monitoring that may capture audio or video of the roommate; and (3)
141 forms for a resident or resident representative to notify the facility that
142 a roommate has withdrawn consent for use of technology for virtual
143 monitoring. The Office of the Long-Term Care Ombudsman shall
144 develop such standard forms in consultation with nursing home facility
145 representatives and the Department of Public Health.

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

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	October 1, 2021	New section