



House of Representatives

General Assembly

File No. 422

February Session, 2022

Substitute House Bill No. 5481

House of Representatives, April 12, 2022

The Committee on Public Health reported through REP. STEINBERG of the 136th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING CHANGE OF OWNERSHIP IN HEALTH CARE FACILITIES.

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

1 Section 1. Section 19a-493 of the 2022 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2022*):

4 (a) Upon receipt of an application for an initial license, the
5 Department of Public Health, subject to the provisions of section 19a-
6 491a, shall issue such license if, upon conducting a scheduled inspection
7 and investigation, the department finds that the applicant and facilities
8 meet the requirements established under section 19a-495, provided a
9 license shall be issued to or renewed for an institution, as defined in
10 section 19a-490, only if such institution is not otherwise required to be
11 licensed by the state. If an institution, as defined in subsections (b), (d),
12 (e) and (f) of section 19a-490, applies for license renewal and has been
13 certified as a provider of services by the United States Department of

14 Health and Human Services under Medicare or Medicaid programs
15 within the immediately preceding twelve-month period, or if an
16 institution, as defined in subsection (b) of section 19a-490, is currently
17 certified, the commissioner or the commissioner's designee may waive
18 on renewal the inspection and investigation of such facility required by
19 this section and, in such event, any such facility shall be deemed to have
20 satisfied the requirements of section 19a-495 for the purposes of
21 licensure. Such license shall be valid for two years or a fraction thereof
22 and shall terminate on March thirty-first, June thirtieth, September
23 thirtieth or December thirty-first of the appropriate year. A license
24 issued pursuant to this chapter, unless sooner suspended or revoked,
25 shall be renewable biennially (1) after an unscheduled inspection is
26 conducted by the department, and (2) upon the filing by the licensee,
27 and approval by the department, of a report upon such date and
28 containing such information in such form as the department prescribes
29 and satisfactory evidence of continuing compliance with requirements
30 established under section 19a-495. In the case of an institution, as
31 defined in subsection (d) of section 19a-490, that is also certified as a
32 provider under the Medicare program, the license shall be issued for a
33 period not to exceed three years, to run concurrently with the
34 certification period. In the case of an institution, as defined in subsection
35 (m) of section 19a-490, that is applying for renewal, the license shall be
36 issued pursuant to section 19a-491. Except in the case of a multicare
37 institution, each license shall be issued only for the premises and
38 persons named in the application. Such license shall not be transferable
39 or assignable. Licenses shall be posted in a conspicuous place in the
40 licensed premises.

41 (b) [(1)] A nursing home license may be renewed biennially after [(A)]
42 (1) an unscheduled inspection conducted by the department, [(B)] (2)
43 submission of the information required by section 19a-491a, and [(C)]
44 (3) submission of evidence satisfactory to the department that the
45 nursing home is in compliance with the provisions of this chapter, the
46 regulations of Connecticut state agencies and licensing regulations.

47 [(2)] (c) (1) For the purposes of this subsection, "facility" means any

48 facility licensed by the Department of Public Health pursuant to chapter
49 368v and "institution" has the same meaning as provided in section 19a-
50 490. Any change in the ownership of a facility or institution [, as defined
51 in section 19a-490,] owned by an individual, partnership or association
52 or the change in ownership or beneficial ownership of [ten per cent or
53 more of the stock of a corporation] the entity which owns, conducts,
54 operates or maintains such facility or institution, including a change in
55 ownership or beneficial ownership resulting in a transfer to a person
56 related by blood or marriage to such an owner or beneficial owner, shall
57 be subject to prior approval of the department. [after a scheduled
58 inspection of such facility or institution is conducted by the department,
59 provided such approval shall be conditioned upon a showing by such
60 facility or institution to the commissioner that it has complied with all
61 requirements of this chapter, the regulations relating to licensure and all
62 applicable requirements of the regulations of Connecticut state agencies.
63 Any such change in ownership or beneficial ownership resulting in a
64 transfer to a person related by blood or marriage to such an owner or
65 beneficial owner shall not be subject to prior approval of the department
66 unless: (A) Ownership or beneficial ownership of ten per cent or more
67 of the stock of a corporation, limited liability company, partnership or
68 association which owns, conducts, operates or maintains more than one
69 facility or institution is transferred; (B) ownership or beneficial
70 ownership is transferred in more than one facility or institution; or (C)
71 the facility or institution is the subject of a pending complaint,
72 investigation or licensure action. If the facility or institution is not in
73 compliance, the commissioner may require the new owner to sign a
74 consent order providing reasonable assurances that the violations shall
75 be corrected within a specified period of time. Notice of any such
76 proposed change of ownership shall be given to the department at least
77 one hundred twenty days prior to the effective date of such proposed
78 change.]

79 (2) Not later than one hundred twenty days before the proposed date
80 of a change in ownership of a facility or institution, the proposed new
81 owner of such facility or institution shall submit an application for
82 approval to the department pursuant to subdivision (1) of this

83 subsection. Such application shall be in a form and manner prescribed
84 by the commissioner and shall include, but need not be limited to, the
85 following: (A) A cover letter stating the applicant's intent to purchase
86 the facility or institution and identification of the facility or institution
87 by name, address, county and number and type of beds licensed by the
88 department; (B) a description of the proposed transaction, including the
89 name of each current owner of the facility or institution; (C) the name of
90 each proposed new owner; (D) the name of each owner of any
91 nonpublicly traded parent corporation of each proposed new owner; (E)
92 if applicable, the proposed new owner's organizational chart, such
93 proposed new owner's parent corporation's organizational chart, and
94 the organizational chart of each wholly-owned subsidiary of such
95 proposed new owner; (F) a copy of the agreement of sale and, if
96 applicable, a copy of any lease or management agreements; (G) a
97 projection of profits and losses and a capital budget projection,
98 including, but not limited to, accounts payable with amount due, days
99 overdue and details of payment to all such accounts, for the three years
100 following the change in ownership; (H) the name and address of any
101 licensed health care facility owned, operated or managed by each
102 proposed owner in the United States or any territory of the United States
103 during the five years preceding the date on which such application is
104 submitted and audited financial statements for each such facility for the
105 three years preceding the date on which such application is submitted;
106 (I) disclosure of any direct or indirect interests, including such interests
107 in intermediate entities and parent, management and property
108 companies and other related entities; (J) a statement that the facility or
109 institution is not the subject of a pending complaint, investigation or
110 licensure action in the state or reciprocal action in another state; (K)
111 disclosure of whether the facility or institution has been subject to (i)
112 three or more civil penalties imposed through final order of the
113 commissioner in accordance with the provisions of sections 19a-524 to
114 19a-528, inclusive, or civil penalties imposed pursuant to the laws or
115 regulations of another state during the two-year period preceding the
116 date on which such application is submitted, or (ii) sanctions, other than
117 civil penalties less than or equal to twenty thousand dollars, imposed in

118 any state through final adjudication under the Medicare or Medicaid
119 program pursuant to Title XVIII or XIX of the federal Social Security Act,
120 42 USC 301, as amended from time to time; and (L) disclosure of
121 whether any proposed new owner's Medicare or Medicaid provider
122 agreement has been terminated or not renewed in any state. For the
123 purposes of this subdivision, "organizational chart" means a graphical
124 representation of an organization, including, but not limited to, the
125 relationships between such organization's employees, departments and
126 the jobs within such organization.

127 (3) After receiving an application for change in ownership, the
128 department shall schedule an inspection of such facility or institution to
129 determine if the facility or institution has complied with the
130 requirements of this chapter and the regulations of Connecticut state
131 agencies relating to licensure of such facility or institution. If a facility
132 or institution is not in compliance with the requirements of a corrective
133 action plan or in violation of any provision of the general statutes or the
134 regulations of Connecticut state agencies, the commissioner may deny
135 the applicant's change in ownership or require the proposed new owner
136 to sign a consent order, which shall include, but need not be limited to,
137 the implementation of a corrective action plan for any such violation
138 within a specified time period. The commissioner may assess a civil
139 penalty of not more than one thousand dollars for each day the owner
140 of the facility or institution is in violation of any provision of the general
141 statutes or the regulations of Connecticut state agencies or such consent
142 order. If the commissioner disapproves a change in ownership, a person
143 related by blood or marriage to the applicant may not apply to acquire
144 ownership interest in the facility or institution. For the purposes of this
145 subdivision, "a person related by blood or marriage" means a parent,
146 spouse, child, brother, sister, aunt, uncle, niece or nephew.

147 (4) For the purposes of this [subdivision] subsection, a change in the
148 legal form of the ownership entity, including, but not limited to, changes
149 from a corporation to a limited liability company, a partnership to a
150 limited liability partnership, a sole proprietorship to a corporation and
151 similar changes, shall not be considered a change of ownership if the

152 beneficial ownership remains unchanged and the owner provides such
153 information regarding the change to the department as may be required
154 by the department in order to properly identify the current status of
155 ownership and beneficial ownership of the facility or institution. For the
156 purposes of this subdivision, a public offering of the stock of any
157 corporation that owns, conducts, operates or maintains any such facility
158 or institution shall not be considered a change in ownership or beneficial
159 ownership of such facility or institution if the licensee and the officers
160 and directors of such corporation remain unchanged, such public
161 offering cannot result in an individual or entity owning ten per cent or
162 more of the stock of such corporation, and the owner provides such
163 information to the department as may be required by the department in
164 order to properly identify the current status of ownership and beneficial
165 ownership of the facility or institution.

166 [(c)] (d) (1) A multicare institution may, under the terms of its existing
167 license, provide behavioral health services or substance use disorder
168 treatment services on the premises of more than one facility, at a satellite
169 unit or at another location outside of its facilities or satellite units that is
170 acceptable to the patient receiving services and is consistent with the
171 patient's assessment and treatment plan. Such behavioral health
172 services or substance use disorder treatment services may include
173 methadone delivery and related substance use treatment services to
174 persons in a nursing home facility pursuant to the provisions of section
175 19a-495c.

176 (2) Any multicare institution that intends to offer services at a satellite
177 unit or other location outside of its facilities or satellite units shall submit
178 an application for approval to offer services at such location to the
179 Department of Public Health. Such application shall be submitted on a
180 form and in the manner prescribed by the Commissioner of Public
181 Health. Not later than forty-five days after receipt of such application,
182 the commissioner shall notify the multicare institution of the approval
183 or denial of such application. If the satellite unit or other location is
184 approved, that satellite unit or location shall be deemed to be licensed
185 in accordance with this section and shall comply with the applicable

186 requirements of this chapter and regulations adopted under this
187 chapter.

188 (3) A multicare institution that is a hospital providing outpatient
189 behavioral health services or other health care services shall provide the
190 Department of Public Health with a list of satellite units or locations
191 when completing the initial or renewal licensure application.

192 (4) The Commissioner of Public Health may adopt regulations, in
193 accordance with the provisions of chapter 54, to carry out the provisions
194 of this subsection. The Commissioner of Public Health may implement
195 policies and procedures necessary to administer the provisions of this
196 subsection while in the process of adopting such policies and
197 procedures as regulation, provided the commissioner prints notice of
198 intent to adopt regulations in the Connecticut Law Journal not later than
199 twenty days after the date of implementation. Policies and procedures
200 implemented pursuant to this section shall be valid until the time final
201 regulations are adopted.

202 Sec. 2. Subsection (a) of section 19a-528a of the general statutes is
203 repealed and the following is substituted in lieu thereof (*Effective July 1,*
204 *2022*):

205 (a) For any application of licensure for the acquisition of a nursing
206 home, any potential nursing home licensee or owner shall submit in
207 writing, a change in ownership application with respect to the facility
208 for which the change in ownership is sought. The application shall be
209 submitted in the form and manner prescribed by the Commissioner of
210 Public Health. The commissioner shall include on the first page of the
211 application the following statement: "NOTICE: The State of Connecticut
212 values the quality of care provided to all nursing home residents. Please
213 know that any nursing home licensee, owner or officer, including, but
214 not limited to, a director, trustee, limited partner, managing partner,
215 general partner or any person having [at least a ten per cent] an
216 ownership interest in the nursing home or the entity that owns the
217 nursing home, and any administrator, assistant administrator, medical
218 director, director of nursing or assistant director of nursing may be

219 subject to civil and criminal liability, as well as administrative sanctions
 220 under applicable federal and state law, for the abuse or neglect of a
 221 resident of the nursing home perpetrated by an employee of the nursing
 222 home."

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2022	19a-493
Sec. 2	July 1, 2022	19a-528a(a)

Statement of Legislative Commissioners:

In Section 1(c)(1), "facility" and "institution" have the same meanings as provided in section 19a-490" was changed to "facility" means any facility licensed by the Department of Public Health pursuant to chapter 368v and "institution" has the same meaning as provided in section 19a-490" for accuracy; and in Section 1(c)(3), "After receiving an application" was changed to "After receiving an application for change in ownership" for clarity and "If an applicant is not in compliance" was changed to "If a facility or institution is not in compliance" for clarity.

PH *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 23 \$	FY 24 \$
Public Health, Dept.	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill is not anticipated to result in a cost to the state or municipalities and may result in a minimal revenue gain to the General Fund from civil penalties. It is anticipated that the Department of Public Health (DPH) can review the additional submitted materials and ownership transfers within existing resources.

By eliminating current exemptions from the change of ownership approval process, the bill could result in a minimal General Fund revenue gain to the extent that DPH inspects more facilities and those inspections ultimately result in DPH assessing civil penalties. As under current law, DPH can assess a civil penalty of up to \$1,000 per day on facility or institution owners in violation of state law or a consent order.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to any civil penalties assessed.

OLR Bill Analysis**sHB 5481*****AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING CHANGE OF OWNERSHIP IN HEALTH CARE FACILITIES.*****SUMMARY**

This bill expands the circumstances in which licensed health care facility or institution ("facility") ownership changes are subject to prior approval from the Department of Public Health (DPH) by eliminating exemptions in current law for (1) changes in ownership or beneficial ownership of under 10% of the stock of a corporation that owns or operates the facility or (2) certain transfers to relatives.

As under current law, these provisions apply to all DPH-licensed facilities or institutions (e.g., hospitals, behavioral health facilities, nursing homes, outpatient surgical facilities, or home health care agencies).

The bill requires proposed new owners to submit several documents and other information to DPH as part of its review of the transfer, such as (1) organizational charts, (2) profit and loss and capital budget projections, and (3) information on certain prior penalties or sanctions in Connecticut or other states.

As under current law, the bill requires DPH to inspect facilities before approving an ownership change. The bill explicitly allows the commissioner to deny an ownership change. Among other things, it also allows DPH to assess a civil penalty on a facility found to be out of compliance with applicable laws, regulations, or a consent order.

Existing law requires DPH to include, on the written application for a change in nursing home ownership, a statement notifying the potential nursing home licensee and owner that they (and certain other

individuals) may be held civilly or criminally liable, or subject to administrative sanctions, for abuse or neglect of a resident by a nursing home employee. Current law limits this notice provision to anyone having at least a 10% ownership interest in the nursing home or other entity. As the bill eliminates the 10% threshold exemption as described above, it makes a corresponding change to the notice to specify that this liability could apply to anyone having an ownership interest in the nursing home or entity that owns it.

EFFECTIVE DATE: July 1, 2022

APPROVAL PROCESS FOR HEALTH CARE FACILITY OWNERSHIP CHANGES

Scope of Requirement

The bill requires all ownership transfers of DPH-licensed health care facilities to be subject to prior approval by the department. This includes (1) direct ownership changes or (2) changes in the ownership of the entity that owns, operates, or maintains the facility.

The bill does so by eliminating two exemptions from current law. First, it eliminates the exemption for changes in ownership or beneficial ownership of under 10% of the stock of a corporation that owns, operates, or maintains the facility.

Second, it eliminates the exemption for certain transfers to relatives, including relatives by marriage (specifically parents, spouses, children, siblings, aunts, uncles, nieces, or nephews). Current law exempts transfers to relatives from the approval process unless it involves (1) at least 10% of the ownership or beneficial ownership of the entity that owns, operates, or maintains the facility; (2) multiple facilities; or (3) a facility that is the subject of a pending complaint, investigation, or licensure action.

By law, under specified conditions, the following are not considered to be ownership changes and thus do not require DPH approval: a (1) change in an entity's legal form of ownership (e.g., a corporation becoming a limited liability company) or (2) a public stock offering

meeting certain requirements.

Application Process

As under current law, the bill requires at least 120 days' prior notice to DPH before a proposed ownership change of a health care facility. The bill requires the proposed new owner to apply within this timeframe, in a form and manner the commissioner prescribes. The application must include the following materials and information:

1. a cover letter stating the applicant's intent to purchase the facility and identifying the facility by name, address, county, and number and type of licensed beds;
2. a description of the proposed transaction and the names of the facility's current owner, the proposed new owner, and each owner of any non-publicly traded parent corporation of the new owner;
3. if applicable, organizational charts for the proposed new owner, its parent corporation, and its wholly-owned subsidiaries;
4. a copy of the sale agreement and any lease or management agreements;
5. profit and loss and capital budget projections, including accounts payable with amount due, days overdue, and details of payments to these accounts, for the three years following the ownership change;
6. the name and address of any U.S.-based (including territories) licensed health care facility each proposed owner owned, operated, or managed during the prior five years, and audited financial statements of these facilities for the prior three years; and
7. a statement that the facility is not the subject of a pending complaint, investigation, or licensure action in any state.

In addition, the application must disclose the following information:

1. any direct or indirect interests, including in intermediate entities and parent, management, and property companies and other related entities;
2. whether the facility has been subject to three or more civil penalties imposed through DPH final orders or civil penalties in other states during the prior two years;
3. whether the facility has been subject to Medicare or Medicaid sanctions in any state, other than civil penalties of \$20,000 or less; and
4. whether any proposed new owner's Medicare or Medicaid provider agreement has been terminated or not renewed in any state.

Inspection, Corrective Action, and Penalties

Similar to current law, the bill:

1. requires DPH to inspect the facility to ensure its compliance with applicable laws and regulations and
2. allows DPH, if the facility is not in compliance with laws, regulations, or a corrective action plan, to (a) deny the application or (b) require the proposed new owner to sign a consent order to implement a corrective action plan within a specified time.

The bill also allows the commissioner to assess a civil penalty of up to \$1,000 for each day the owner or facility is in violation of the law, regulations, or consent order. Additionally, if the commissioner disapproves an application, the bill prohibits the applicant's relatives from applying to acquire an ownership interest in the facility.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 20 Nay 9 (03/25/2022)