



# House of Representatives

General Assembly

**File No. 74**

January Session, 2023

Substitute House Bill No. 6678

*House of Representatives, March 15, 2023*

The Committee on Aging reported through REP. GARIBAY of the 60th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING NURSING HOME TRANSPARENCY.***

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

1 Section 1. (NEW) (*Effective July 1, 2023*) (a) Beginning with the cost  
2 report year ending on September 30, 2023, and annually thereafter, each  
3 nursing home facility, as defined in section 19a-490 of the general  
4 statutes, shall submit to the Commissioner of Social Services narrative  
5 summaries of expenditures in addition to the cost reports required  
6 pursuant to section 17b-340 of the general statutes, as amended by this  
7 act. The summaries shall include the percentage of Medicaid funding  
8 allocated to the five cost components of allowable costs described in  
9 section 17b-340d of the general statutes and include expenditures for  
10 each allowable cost component by the nursing home and any related  
11 party, as defined in section 17b-340 of the general statutes, as amended  
12 by this act.

13 (b) Not later than January 1, 2024, and annually thereafter, the  
14 Commissioner of Social Services shall post in a conspicuous area on the  
15 Internet web site of the Department of Social Services a link to (1) the

16 annual cost reports and the summaries provided by each nursing home  
17 facility, (2) comparisons between individual nursing homes by  
18 expenditures, and (3) a summary of the average reported expenditures  
19 by facility for each category. Any cost report forms utilized by the  
20 department shall include a glossary and explanation of the terms used  
21 and a description of the categories being reported on, including, but not  
22 limited to, plain language explanation of formulas used to determine  
23 maximum costs for the five allowable cost components described in  
24 section 17b-340d of the general statutes.

25 (c) Any nursing home facility that violates or fails to comply with the  
26 provisions of this section shall be fined not more than ten thousand  
27 dollars for each incident of noncompliance. The Commissioner of Social  
28 Services may offset payments due a facility to collect the penalty. Prior  
29 to imposing any penalty pursuant to this subsection, the commissioner  
30 shall notify the nursing home facility of the alleged violation and the  
31 accompanying penalty and shall permit such facility to request that the  
32 department review its findings. A facility shall request such review not  
33 later than fifteen days after receipt of the notice of violation from the  
34 department. The department shall stay the imposition of any penalty  
35 pending the outcome of the review. The commissioner may impose a  
36 penalty upon a facility pursuant to this subsection regardless of whether  
37 a change in ownership of the facility has taken place since the time of  
38 the violation, provided the department issued notice of the alleged  
39 violation and the accompanying penalty prior to the effective date of the  
40 change in ownership and record of such notice is readily available in a  
41 central registry maintained by the department. Payments of fines  
42 received pursuant to this subsection shall be deposited in the General  
43 Fund and credited to the Medicaid account.

44 Sec. 2. Section 19a-491a of the general statutes is repealed and the  
45 following is substituted in lieu thereof (*Effective July 1, 2023*):

46 (a) A person seeking a license to establish, conduct, operate or  
47 maintain a nursing home shall provide the Department of Public Health  
48 with the following information:

49 (1) (A) The name and business address of the owner and a statement  
50 of whether the owner is an individual, partnership, corporation or other  
51 legal entity; (B) the names of the officers, directors, trustees, or  
52 managing and general partners of the owner, the names of persons  
53 having a ten per cent or greater ownership interest in the owner, and a  
54 description of each such person's occupation with the owner; [and] (C)  
55 if the owner is a corporation which is incorporated in another state, a  
56 certificate of good standing from the secretary of state of the state of  
57 incorporation; and (D) if a private equity fund owns any portion of the  
58 business, the name of the fund's investment advisor and a copy of the  
59 most recent quarterly statement provided to the private fund's  
60 investors, including information regarding fees, expenses and  
61 performance of the fund;

62 (2) A description of the relevant business experience of the owner and  
63 of the administrator of the nursing home and evidence that the  
64 administrator has a license issued pursuant to section 19a-514;

65 (3) Affidavits signed by the owner, any of the persons described in  
66 subdivision (1) of this subsection, the administrator, assistant  
67 administrator, the medical director, the director of nursing and assistant  
68 director of nursing disclosing any matter in which such person has been  
69 convicted of a felony, as defined in section 53a-25, or has pleaded nolo  
70 contendere to a felony charge, or has been held liable or enjoined in a  
71 civil action by final judgment, if the felony or civil action involved fraud,  
72 embezzlement, fraudulent conversion or misappropriation of property;  
73 or is subject to an injunction or restrictive or remedial order of a court of  
74 record at the time of application, within the past five years has had any  
75 state or federal license or permit suspended or revoked as a result of an  
76 action brought by a governmental agency or department, arising out of  
77 or relating to health care business activity, including, but not limited to,  
78 actions affecting the operation of a nursing home, retirement home,  
79 residential care home or any facility subject to sections 17b-520 to 17b-  
80 535, inclusive, or a similar statute in another state or country;

81 (4) (A) A statement as to whether or not the owner is, or is affiliated

82 with, a religious, charitable or other nonprofit organization; (B) the  
83 extent of the affiliation, if any; (C) the extent to which the affiliate  
84 organization will be responsible for the financial obligations of the  
85 owner; and (D) the provision of the Internal Revenue Code of 1986, or  
86 any subsequent corresponding internal revenue code of the United  
87 States, as from time to time amended, if any, under which the owner or  
88 affiliate is exempt from the payment of income tax;

89 (5) The location and a description of other health care facilities of the  
90 owner, existing or proposed, and, if proposed, the estimated completion  
91 date or dates and whether or not construction has begun; [and]

92 (6) Audited and certified financial statements of the owner, including  
93 (A) a balance sheet as of the end of the most recent fiscal year, and (B)  
94 income statements for the most recent fiscal year of the owner or such  
95 shorter period of time as the owner shall have been in existence; and

96 ~~[(6)]~~ (7) If the operation of the nursing home has not yet commenced,  
97 a statement of the anticipated source and application of the funds used  
98 or to be used in the purchase or construction of the home, including:

99 (A) An estimate of such costs as financing expense, legal expense,  
100 land costs, marketing costs and other similar costs which the owner  
101 expects to incur or become obligated for prior to the commencement of  
102 operations; and

103 (B) A description of any mortgage loan or any other financing  
104 intended to be used for the financing of the nursing home, including the  
105 anticipated terms and costs of such financing.

106 [(b) In addition to the information provided pursuant to subsection  
107 (a) of this section, the commissioner may reasonably require an  
108 applicant for a nursing home license or renewal of a nursing home  
109 license to submit additional information. Such information may include  
110 audited and certified financial statements of the owner, including, (1) a  
111 balance sheet as of the end of the most recent fiscal year, and (2) income  
112 statements for the most recent fiscal year of the owner or such shorter

113 period of time as the owner shall have been in existence.]

114 [(c)] (b) No person acting individually or jointly with any other  
115 person shall establish, conduct, operate or maintain a nursing home  
116 without maintaining professional liability insurance or other indemnity  
117 against liability for professional malpractice. The amount of insurance  
118 which such person shall maintain as insurance or indemnity against  
119 claims for injury or death for professional malpractice shall be not less  
120 than one million dollars for one person, per occurrence, with an  
121 aggregate of not less than three million dollars. The requirements of this  
122 subsection shall not apply to any person who establishes, conducts,  
123 operates or maintains a residential care home.

124 [(d)] (c) A person seeking to renew a nursing home license shall  
125 furnish the department with any information required under this  
126 section that was not previously submitted and with satisfactory written  
127 proof that the owner of the nursing home consents to such renewal, if  
128 the owner is different from the person seeking renewal, and shall  
129 provide data on any change in the information submitted. The  
130 commissioner shall refuse to issue or renew a nursing home license if  
131 the person seeking renewal fails to provide the information required  
132 under this section. Upon such refusal, the commissioner shall grant such  
133 license to the holder of the certificate of need, provided such holder  
134 meets all requirements for such licensure. If such holder does not meet  
135 such requirements, the commissioner shall proceed in accordance with  
136 sections 19a-541 to 19a-549, inclusive. If the commissioner is considering  
137 a license renewal application pursuant to an order of the commissioner,  
138 the procedures in this subsection shall apply to such consideration.

139 Sec. 3. Subsection (a) of section 17b-340 of the general statutes is  
140 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
141 *2023*):

142 (a) For purposes of this subsection, (1) a "related party" includes, but  
143 is not limited to, any company related to a chronic and convalescent  
144 nursing home through family association, common ownership, control  
145 or business association with any of the owners, operators or officials of

146 such nursing home; (2) "company" means any person, partnership,  
147 association, holding company, limited liability company or corporation;  
148 (3) "family association" means a relationship by birth, marriage or  
149 domestic partnership; and (4) "profit and loss statement" means the  
150 most recent annual statement on profits and losses finalized by a related  
151 party before the annual report mandated under this subsection. The  
152 rates to be paid by or for persons aided or cared for by the state or any  
153 town in this state to licensed chronic and convalescent nursing homes,  
154 to chronic disease hospitals associated with chronic and convalescent  
155 nursing homes, to rest homes with nursing supervision, to licensed  
156 residential care homes, as defined by section 19a-490, and to residential  
157 facilities for persons with intellectual disability that are licensed  
158 pursuant to section 17a-227 and certified to participate in the Title XIX  
159 Medicaid program as intermediate care facilities for individuals with  
160 intellectual disabilities, for room, board and services specified in  
161 licensing regulations issued by the licensing agency shall be determined  
162 annually, except as otherwise provided in this subsection by the  
163 Commissioner of Social Services, to be effective July first of each year  
164 except as otherwise provided in this subsection. Such rates shall be  
165 determined on a basis of a reasonable payment for such necessary  
166 services, which basis shall take into account as a factor the costs of such  
167 services. Cost of such services shall include reasonable costs mandated  
168 by collective bargaining agreements with certified collective bargaining  
169 agents or other agreements between the employer and employees,  
170 provided "employees" shall not include persons employed as managers  
171 or chief administrators or required to be licensed as nursing home  
172 administrators, and compensation for services rendered by proprietors  
173 at prevailing wage rates, as determined by application of principles of  
174 accounting as prescribed by said commissioner. Cost of such services  
175 shall not include amounts paid by the facilities to employees as salary,  
176 or to attorneys or consultants as fees, where the responsibility of the  
177 employees, attorneys, or consultants is to persuade or seek to persuade  
178 the other employees of the facility to support or oppose unionization.  
179 Nothing in this subsection shall prohibit inclusion of amounts paid for  
180 legal counsel related to the negotiation of collective bargaining

181 agreements, the settlement of grievances or normal administration of  
182 labor relations. The commissioner may, in the commissioner's  
183 discretion, allow the inclusion of extraordinary and unanticipated costs  
184 of providing services that were incurred to avoid an immediate negative  
185 impact on the health and safety of patients. The commissioner may, in  
186 the commissioner's discretion, based upon review of a facility's costs,  
187 direct care staff to patient ratio and any other related information, revise  
188 a facility's rate for any increases or decreases to total licensed capacity  
189 of more than ten beds or changes to its number of licensed rest home  
190 with nursing supervision beds and chronic and convalescent nursing  
191 home beds. The commissioner may, in the commissioner's discretion,  
192 revise the rate of a facility that is closing. An interim rate issued for the  
193 period during which a facility is closing shall be based on a review of  
194 facility costs, the expected duration of the close-down period, the  
195 anticipated impact on Medicaid costs, available appropriations and the  
196 relationship of the rate requested by the facility to the average Medicaid  
197 rate for a close-down period. The commissioner may so revise a facility's  
198 rate established for the fiscal year ending June 30, 1993, and thereafter  
199 for any bed increases, decreases or changes in licensure effective after  
200 October 1, 1989. Effective July 1, 1991, in facilities that have both a  
201 chronic and convalescent nursing home and a rest home with nursing  
202 supervision, the rate for the rest home with nursing supervision shall  
203 not exceed such facility's rate for its chronic and convalescent nursing  
204 home. All such facilities for which rates are determined under this  
205 subsection shall report on a fiscal year basis ending on September  
206 thirtieth. Such report shall be submitted to the commissioner by  
207 February fifteenth. Each [for-profit] chronic and convalescent nursing  
208 home that receives state funding pursuant to this section shall include  
209 in such annual report a profit and loss statement from each related party  
210 that receives from such chronic and convalescent nursing home [fifty  
211 thousand dollars or more per year] any amount of income for goods,  
212 fees and services. No cause of action or liability shall arise against the  
213 state, the Department of Social Services, any state official or agent for  
214 failure to take action based on the information required to be reported  
215 under this subsection. The commissioner may reduce the rate in effect

216 for a facility that fails to submit a complete and accurate report on or  
217 before February fifteenth by an amount not to exceed ten per cent of  
218 such rate. If a licensed residential care home fails to submit a complete  
219 and accurate report, the department shall notify such home of the failure  
220 and the home shall have thirty days from the date the notice was issued  
221 to submit a complete and accurate report. If a licensed residential care  
222 home fails to submit a complete and accurate report not later than thirty  
223 days after the date of notice, such home may not receive a retroactive  
224 rate increase, in the commissioner's discretion. The commissioner shall,  
225 annually, on or before April first, report the data contained in the reports  
226 of such facilities on the department's Internet web site. For the cost  
227 reporting year commencing October 1, 1985, and for subsequent cost  
228 reporting years, facilities shall report the cost of using the services of any  
229 nursing personnel supplied by a temporary nursing services agency by  
230 separating said cost into two categories, the portion of the cost equal to  
231 the salary of the employee for whom the nursing personnel supplied by  
232 a temporary nursing services agency is substituting shall be considered  
233 a nursing cost and any cost in excess of such salary shall be further  
234 divided so that seventy-five per cent of the excess cost shall be  
235 considered an administrative or general cost and twenty-five per cent of  
236 the excess cost shall be considered a nursing cost, provided if the total  
237 costs of a facility for nursing personnel supplied by a temporary nursing  
238 services agency in any cost year are equal to or exceed fifteen per cent  
239 of the total nursing expenditures of the facility for such cost year, no  
240 portion of such costs in excess of fifteen per cent shall be classified as  
241 administrative or general costs. The commissioner, in determining such  
242 rates, shall also take into account the classification of patients or  
243 boarders according to special care requirements or classification of the  
244 facility according to such factors as facilities and services and such other  
245 factors as the commissioner deems reasonable, including anticipated  
246 fluctuations in the cost of providing such services. The commissioner  
247 may establish a separate rate for a facility or a portion of a facility for  
248 traumatic brain injury patients who require extensive care but not acute  
249 general hospital care. Such separate rate shall reflect the special care  
250 requirements of such patients. If changes in federal or state laws,



251 regulations or standards adopted subsequent to June 30, 1985, result in  
252 increased costs or expenditures in an amount exceeding one-half of one  
253 per cent of allowable costs for the most recent cost reporting year, the  
254 commissioner shall adjust rates and provide payment for any such  
255 increased reasonable costs or expenditures within a reasonable period  
256 of time retroactive to the date of enforcement. Nothing in this section  
257 shall be construed to require the Department of Social Services to adjust  
258 rates and provide payment for any increases in costs resulting from an  
259 inspection of a facility by the Department of Public Health. Such  
260 assistance as the commissioner requires from other state agencies or  
261 departments in determining rates shall be made available to the  
262 commissioner at the commissioner's request. Payment of the rates  
263 established pursuant to this section shall be conditioned on the  
264 establishment by such facilities of admissions procedures that conform  
265 with this section, section 19a-533 and all other applicable provisions of  
266 the law and the provision of equality of treatment to all persons in such  
267 facilities. The established rates shall be the maximum amount  
268 chargeable by such facilities for care of such beneficiaries, and the  
269 acceptance by or on behalf of any such facility of any additional  
270 compensation for care of any such beneficiary from any other person or  
271 source shall constitute the offense of aiding a beneficiary to obtain aid  
272 to which the beneficiary is not entitled and shall be punishable in the  
273 same manner as is provided in subsection (b) of section 17b-97.  
274 Notwithstanding any provision of this section, the Commissioner of  
275 Social Services may, within available appropriations, provide an interim  
276 rate increase for a licensed chronic and convalescent nursing home or a  
277 rest home with nursing supervision for rate periods no earlier than April  
278 1, 2004, only if the commissioner determines that the increase is  
279 necessary to avoid the filing of a petition for relief under Title 11 of the  
280 United States Code; imposition of receivership pursuant to sections 19a-  
281 542 and 19a-543; or substantial deterioration of the facility's financial  
282 condition that may be expected to adversely affect resident care and the  
283 continued operation of the facility, and the commissioner determines  
284 that the continued operation of the facility is in the best interest of the  
285 state. The commissioner shall consider any requests for interim rate

286 increases on file with the department from March 30, 2004, and those  
287 submitted subsequently for rate periods no earlier than April 1, 2004.  
288 When reviewing an interim rate increase request the commissioner  
289 shall, at a minimum, consider: (A) Existing chronic and convalescent  
290 nursing home or rest home with nursing supervision utilization in the  
291 area and projected bed need; (B) physical plant long-term viability and  
292 the ability of the owner or purchaser to implement any necessary  
293 property improvements; (C) licensure and certification compliance  
294 history; (D) reasonableness of actual and projected expenses; and (E) the  
295 ability of the facility to meet wage and benefit costs. No interim rate  
296 shall be increased pursuant to this subsection in excess of one hundred  
297 fifteen per cent of the median rate for the facility's peer grouping,  
298 established pursuant to subdivision (2) of subsection (f) of this section,  
299 unless recommended by the commissioner and approved by the  
300 Secretary of the Office of Policy and Management after consultation  
301 with the commissioner. Such median rates shall be published by the  
302 Department of Social Services not later than April first of each year. In  
303 the event that a facility granted an interim rate increase pursuant to this  
304 section is sold or otherwise conveyed for value to an unrelated entity  
305 less than five years after the effective date of such rate increase, the rate  
306 increase shall be deemed rescinded and the department shall recover an  
307 amount equal to the difference between payments made for all affected  
308 rate periods and payments that would have been made if the interim  
309 rate increase was not granted. The commissioner may seek recovery of  
310 such payments from any facility with common ownership. With the  
311 approval of the Secretary of the Office of Policy and Management, the  
312 commissioner may waive recovery and rescission of the interim rate for  
313 good cause shown that is not inconsistent with this section, including,  
314 but not limited to, transfers to family members that were made for no  
315 value. The commissioner shall provide written quarterly reports to the  
316 joint standing committees of the General Assembly having cognizance  
317 of matters relating to aging, human services and appropriations and the  
318 budgets of state agencies, that identify each facility requesting an  
319 interim rate increase, the amount of the requested rate increase for each  
320 facility, the action taken by the commissioner and the secretary pursuant

321 to this subsection, and estimates of the additional cost to the state for  
 322 each approved interim rate increase. Nothing in this subsection shall  
 323 prohibit the commissioner from increasing the rate of a licensed chronic  
 324 and convalescent nursing home or a rest home with nursing supervision  
 325 for allowable costs associated with facility capital improvements or  
 326 increasing the rate in case of a sale of a licensed chronic and convalescent  
 327 nursing home or a rest home with nursing supervision if receivership  
 328 has been imposed on such home. For purposes of this section,  
 329 "temporary nursing services agency" and "nursing personnel" have the  
 330 same meaning as provided in section 19a-118.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	New section
Sec. 2	<i>July 1, 2023</i>	19a-491a
Sec. 3	<i>July 1, 2023</i>	17b-340(a)

**Statement of Legislative Commissioners:**

In Section 1(b), "department's Internet web site" was changed to "Internet web site of the Department of Social Services" for clarity.

**AGE**      *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 24 \$	FY 25 \$
Social Services, Dept.	GF - Potential Revenue Gain/Cost Savings	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill could result in a revenue gain or cost savings to the Department of Social Services (DSS) associated with fines for nursing homes due to noncompliance with documentation requirements established by the bill. The bill requires nursing homes to provide narrative summaries of expenditures in addition to their currently required cost reports. Failure to comply with the provisions of the bill could result in a fine of not more than \$10,000 for each incident of noncompliance. The fine may be paid to the General Fund and credited to the Medicaid account, or DSS may collect the fine through reduced Medicaid payments due to such facilities.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the rate of noncompliance and the amount of fines levied.

**OLR Bill Analysis****sHB 6678*****AN ACT CONCERNING NURSING HOME TRANSPARENCY.*****SUMMARY**

This bill makes various changes related to nursing home oversight and the information they must provide to state agencies. It requires (1) nursing homes to submit to the Department of Social Services (DSS) narrative summaries of certain expenditures, in addition to their annually required cost reports, and (2) DSS to post this information on its website. The bill subjects nursing homes that fail to do so to a fine of up to \$10,000 per incident.

The bill expands the information that nursing home licensure applicants must provide to the Department of Public Health (DPH) to include (1) information on any private equity fund that owns any part of the home, the name of the fund's investment advisor, and a copy of the most recent quarterly statement given to the private fund's investors, and (2) the owner's audited and certified financial statements. Under current law, these statements are only required if requested by DPH. The financial statement must include a balance sheet from the end of the most recent fiscal year and income statements from the most recent fiscal year (or an applicable shorter period if the owner has not existed for a full fiscal year).

The bill also broadens certain reporting requirements for chronic and convalescent nursing homes that receive Medicaid funding. Current law requires these types of for-profit homes to include in their annual reports a profit and loss statement from each related party (i.e., a company related to the home through family association, common ownership, control, or business association with the home's owners or operators) that receives at least \$50,000 of income from the home per

year. The bill (1) removes the income threshold, requiring statements from each related party that received any income from the home, and (2) extends the requirement to all of these types of nursing homes, not just for-profits.

EFFECTIVE DATE: July 1, 2023

### **COST REPORTING REQUIREMENTS**

Beginning with the current cost reporting year, the bill requires nursing homes to annually submit narrative summaries of cost expenditures to the DSS commissioner, alongside their statutorily required cost reports. The summaries must include the percentage of Medicaid funding allocated to, and expenditures in, (1) direct costs, (2) indirect costs, (3) fair rent, (4) capital-related costs, and (5) administrative and general costs. They must also include expenditures for each allowable cost component by the nursing home and any related party.

Starting by January 1, 2024, the DSS commissioner must annually post on the agency's website (1) these cost reports and summaries for each nursing home, (2) comparisons between individual nursing homes by expenditures, and (3) a summary of average reported expenditures by facility for each category. Any cost report forms DSS uses must include a glossary, an explanation of the terms used, a description of the reported categories, and a plain language explanation of the formulas used to determine costs for the five allowable cost components.

The bill requires a nursing home that fails to comply with this reporting requirement to be fined up to \$10,000. Before imposing a penalty, the social services commissioner must notify the nursing home about the violation and allow it to request a review. The home must request a review within 15 days after receiving the notice, and DSS cannot impose the penalty while the review is pending.

Under the bill, the penalty may be imposed even if the nursing home's ownership changes after the violation takes place, as long as DSS issued the notice about the violation before the change in ownership

became effective and the record of the notice is readily available in a central registry maintained by DSS. The DSS commissioner may collect the penalty by offsetting payments due to the facility. Payments made for these penalties must be deposited in the General Fund and credited to the Medicaid account.

**COMMITTEE ACTION**

Aging Committee

Joint Favorable Substitute

Yea 15 Nay 0 (02/28/2023)