



House of Representatives

File No. 670

General Assembly

January Session, 2023

(Reprint of File No. 74)

Substitute House Bill No. 6678
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 1, 2023

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 profit and loss statements for the
8 preceding three cost report years, total revenue, total expenditures, total
9 assets, total liabilities, short-term debt, long-term debt and cash flows
10 from investing, operating and financing activities.

11 (b) Not later than January 1, 2024, and annually thereafter, the
12 Commissioner of Social Services shall post in a conspicuous area on the
13 Internet web site of the Department of Social Services a link to the
14 annual cost reports and the summaries provided by each nursing home

15 facility.

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

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 Section 19a-491a of the general statutes is repealed and the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

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

39 (1) (A) The name and business address of the owner and a statement
40 of whether the owner is an individual, partnership, corporation or other
41 legal entity; (B) the names of the officers, directors, trustees, or
42 managing and general partners of the owner, the names of persons
43 having a ten per cent or greater ownership interest in the owner, and a
44 description of each such person's occupation with the owner; [and] (C)
45 if the owner is a corporation which is incorporated in another state, a
46 certificate of good standing from the secretary of state of the state of

47 incorporation; and (D) if a private equity fund owns any portion of the
48 business, the name of the fund's investment advisor and a copy of the
49 most recent quarterly statement provided to the private fund's
50 investors, including information regarding fees, expenses and
51 performance of the fund;

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

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

71 (4) (A) A statement as to whether or not the owner is, or is affiliated
72 with, a religious, charitable or other nonprofit organization; (B) the
73 extent of the affiliation, if any; (C) the extent to which the affiliate
74 organization will be responsible for the financial obligations of the
75 owner; and (D) the provision of the Internal Revenue Code of 1986, or
76 any subsequent corresponding internal revenue code of the United
77 States, as from time to time amended, if any, under which the owner or
78 affiliate is exempt from the payment of income tax;

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

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

86 ~~[(6)]~~ (7) If the operation of the nursing home has not yet commenced,
87 a statement of the anticipated source and application of the funds used
88 or to be used in the purchase or construction of the home, including:

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

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

96 (b) In addition to the information provided pursuant to subsection (a)
97 of this section, the commissioner may reasonably require an applicant
98 for a nursing home license or renewal of a nursing home license to
99 submit additional information. Such information may include audited
100 and certified financial statements of the owner, including, (1) a balance
101 sheet as of the end of the most recent fiscal year, and (2) income
102 statements for the most recent fiscal year of the owner or such shorter
103 period of time as the owner shall have been in existence.

104 (c) No person acting individually or jointly with any other person
105 shall establish, conduct, operate or maintain a nursing home without
106 maintaining professional liability insurance or other indemnity against
107 liability for professional malpractice. The amount of insurance which
108 such person shall maintain as insurance or indemnity against claims for
109 injury or death for professional malpractice shall be not less than one

110 million dollars for one person, per occurrence, with an aggregate of not
111 less than three million dollars. The requirements of this subsection shall
112 not apply to any person who establishes, conducts, operates or
113 maintains a residential care home.

114 (d) A person seeking to renew a nursing home license shall furnish
115 the department with any information required under this section that
116 was not previously submitted and with satisfactory written proof that
117 the owner of the nursing home consents to such renewal, if the owner is
118 different from the person seeking renewal, and shall provide data on
119 any change in the information submitted. The commissioner shall refuse
120 to issue or renew a nursing home license if the person seeking renewal
121 fails to provide the information required under this section. Upon such
122 refusal, the commissioner shall grant such license to the holder of the
123 certificate of need, provided such holder meets all requirements for such
124 licensure. If such holder does not meet such requirements, the
125 commissioner shall proceed in accordance with sections 19a-541 to 19a-
126 549, inclusive. If the commissioner is considering a license renewal
127 application pursuant to an order of the commissioner, the procedures in
128 this subsection shall apply to such consideration.

129 Sec. 3. Subsection (a) of section 17b-340 of the general statutes is
130 repealed and the following is substituted in lieu thereof (*Effective July 1,*
131 *2023*):

132 (a) For purposes of this subsection, (1) a "related party" includes, but
133 is not limited to, any company related to a chronic and convalescent
134 nursing home through family association, common ownership, control
135 or business association with any of the owners, operators or officials of
136 such nursing home; (2) "company" means any person, partnership,
137 association, holding company, limited liability company or corporation;
138 (3) "family association" means a relationship by birth, marriage or
139 domestic partnership; and (4) "profit and loss statement" means the
140 most recent annual statement on profits and losses finalized by a related
141 party before the annual report mandated under this subsection. The
142 rates to be paid by or for persons aided or cared for by the state or any

143 town in this state to licensed chronic and convalescent nursing homes,
144 to chronic disease hospitals associated with chronic and convalescent
145 nursing homes, to rest homes with nursing supervision, to licensed
146 residential care homes, as defined by section 19a-490, and to residential
147 facilities for persons with intellectual disability that are licensed
148 pursuant to section 17a-227 and certified to participate in the Title XIX
149 Medicaid program as intermediate care facilities for individuals with
150 intellectual disabilities, for room, board and services specified in
151 licensing regulations issued by the licensing agency shall be determined
152 annually, except as otherwise provided in this subsection by the
153 Commissioner of Social Services, to be effective July first of each year
154 except as otherwise provided in this subsection. Such rates shall be
155 determined on a basis of a reasonable payment for such necessary
156 services, which basis shall take into account as a factor the costs of such
157 services. Cost of such services shall include reasonable costs mandated
158 by collective bargaining agreements with certified collective bargaining
159 agents or other agreements between the employer and employees,
160 provided "employees" shall not include persons employed as managers
161 or chief administrators or required to be licensed as nursing home
162 administrators, and compensation for services rendered by proprietors
163 at prevailing wage rates, as determined by application of principles of
164 accounting as prescribed by said commissioner. Cost of such services
165 shall not include amounts paid by the facilities to employees as salary,
166 or to attorneys or consultants as fees, where the responsibility of the
167 employees, attorneys, or consultants is to persuade or seek to persuade
168 the other employees of the facility to support or oppose unionization.
169 Nothing in this subsection shall prohibit inclusion of amounts paid for
170 legal counsel related to the negotiation of collective bargaining
171 agreements, the settlement of grievances or normal administration of
172 labor relations. The commissioner may, in the commissioner's
173 discretion, allow the inclusion of extraordinary and unanticipated costs
174 of providing services that were incurred to avoid an immediate negative
175 impact on the health and safety of patients. The commissioner may, in
176 the commissioner's discretion, based upon review of a facility's costs,
177 direct care staff to patient ratio and any other related information, revise

178 a facility's rate for any increases or decreases to total licensed capacity
179 of more than ten beds or changes to its number of licensed rest home
180 with nursing supervision beds and chronic and convalescent nursing
181 home beds. The commissioner may, in the commissioner's discretion,
182 revise the rate of a facility that is closing. An interim rate issued for the
183 period during which a facility is closing shall be based on a review of
184 facility costs, the expected duration of the close-down period, the
185 anticipated impact on Medicaid costs, available appropriations and the
186 relationship of the rate requested by the facility to the average Medicaid
187 rate for a close-down period. The commissioner may so revise a facility's
188 rate established for the fiscal year ending June 30, 1993, and thereafter
189 for any bed increases, decreases or changes in licensure effective after
190 October 1, 1989. Effective July 1, 1991, in facilities that have both a
191 chronic and convalescent nursing home and a rest home with nursing
192 supervision, the rate for the rest home with nursing supervision shall
193 not exceed such facility's rate for its chronic and convalescent nursing
194 home. All such facilities for which rates are determined under this
195 subsection shall report on a fiscal year basis ending on September
196 thirtieth. Such report shall be submitted to the commissioner by
197 February fifteenth. Each [for-profit] chronic and convalescent nursing
198 home that receives state funding pursuant to this section shall include
199 in such annual report a profit and loss statement from each related party
200 that receives from such chronic and convalescent nursing home fifty
201 thousand dollars or more per year for goods, fees and services. No cause
202 of action or liability shall arise against the state, the Department of Social
203 Services, any state official or agent for failure to take action based on the
204 information required to be reported under this subsection. The
205 commissioner may reduce the rate in effect for a facility that fails to
206 submit a complete and accurate report on or before February fifteenth
207 by an amount not to exceed ten per cent of such rate. If a licensed
208 residential care home fails to submit a complete and accurate report, the
209 department shall notify such home of the failure and the home shall
210 have thirty days from the date the notice was issued to submit a
211 complete and accurate report. If a licensed residential care home fails to
212 submit a complete and accurate report not later than thirty days after

213 the date of notice, such home may not receive a retroactive rate increase,
214 in the commissioner's discretion. The commissioner shall, annually, on
215 or before April first, report the data contained in the reports of such
216 facilities on the department's Internet web site. For the cost reporting
217 year commencing October 1, 1985, and for subsequent cost reporting
218 years, facilities shall report the cost of using the services of any nursing
219 personnel supplied by a temporary nursing services agency by
220 separating said cost into two categories, the portion of the cost equal to
221 the salary of the employee for whom the nursing personnel supplied by
222 a temporary nursing services agency is substituting shall be considered
223 a nursing cost and any cost in excess of such salary shall be further
224 divided so that seventy-five per cent of the excess cost shall be
225 considered an administrative or general cost and twenty-five per cent of
226 the excess cost shall be considered a nursing cost, provided if the total
227 costs of a facility for nursing personnel supplied by a temporary nursing
228 services agency in any cost year are equal to or exceed fifteen per cent
229 of the total nursing expenditures of the facility for such cost year, no
230 portion of such costs in excess of fifteen per cent shall be classified as
231 administrative or general costs. The commissioner, in determining such
232 rates, shall also take into account the classification of patients or
233 boarders according to special care requirements or classification of the
234 facility according to such factors as facilities and services and such other
235 factors as the commissioner deems reasonable, including anticipated
236 fluctuations in the cost of providing such services. The commissioner
237 may establish a separate rate for a facility or a portion of a facility for
238 traumatic brain injury patients who require extensive care but not acute
239 general hospital care. Such separate rate shall reflect the special care
240 requirements of such patients. If changes in federal or state laws,
241 regulations or standards adopted subsequent to June 30, 1985, result in
242 increased costs or expenditures in an amount exceeding one-half of one
243 per cent of allowable costs for the most recent cost reporting year, the
244 commissioner shall adjust rates and provide payment for any such
245 increased reasonable costs or expenditures within a reasonable period
246 of time retroactive to the date of enforcement. Nothing in this section
247 shall be construed to require the Department of Social Services to adjust

248 rates and provide payment for any increases in costs resulting from an
249 inspection of a facility by the Department of Public Health. Such
250 assistance as the commissioner requires from other state agencies or
251 departments in determining rates shall be made available to the
252 commissioner at the commissioner's request. Payment of the rates
253 established pursuant to this section shall be conditioned on the
254 establishment by such facilities of admissions procedures that conform
255 with this section, section 19a-533 and all other applicable provisions of
256 the law and the provision of equality of treatment to all persons in such
257 facilities. The established rates shall be the maximum amount
258 chargeable by such facilities for care of such beneficiaries, and the
259 acceptance by or on behalf of any such facility of any additional
260 compensation for care of any such beneficiary from any other person or
261 source shall constitute the offense of aiding a beneficiary to obtain aid
262 to which the beneficiary is not entitled and shall be punishable in the
263 same manner as is provided in subsection (b) of section 17b-97.
264 Notwithstanding any provision of this section, the Commissioner of
265 Social Services may, within available appropriations, provide an interim
266 rate increase for a licensed chronic and convalescent nursing home or a
267 rest home with nursing supervision for rate periods no earlier than April
268 1, 2004, only if the commissioner determines that the increase is
269 necessary to avoid the filing of a petition for relief under Title 11 of the
270 United States Code; imposition of receivership pursuant to sections 19a-
271 542 and 19a-543; or substantial deterioration of the facility's financial
272 condition that may be expected to adversely affect resident care and the
273 continued operation of the facility, and the commissioner determines
274 that the continued operation of the facility is in the best interest of the
275 state. The commissioner shall consider any requests for interim rate
276 increases on file with the department from March 30, 2004, and those
277 submitted subsequently for rate periods no earlier than April 1, 2004.
278 When reviewing an interim rate increase request the commissioner
279 shall, at a minimum, consider: (A) Existing chronic and convalescent
280 nursing home or rest home with nursing supervision utilization in the
281 area and projected bed need; (B) physical plant long-term viability and
282 the ability of the owner or purchaser to implement any necessary

283 property improvements; (C) licensure and certification compliance
284 history; (D) reasonableness of actual and projected expenses; and (E) the
285 ability of the facility to meet wage and benefit costs. No interim rate
286 shall be increased pursuant to this subsection in excess of one hundred
287 fifteen per cent of the median rate for the facility's peer grouping,
288 established pursuant to subdivision (2) of subsection (f) of this section,
289 unless recommended by the commissioner and approved by the
290 Secretary of the Office of Policy and Management after consultation
291 with the commissioner. Such median rates shall be published by the
292 Department of Social Services not later than April first of each year. In
293 the event that a facility granted an interim rate increase pursuant to this
294 section is sold or otherwise conveyed for value to an unrelated entity
295 less than five years after the effective date of such rate increase, the rate
296 increase shall be deemed rescinded and the department shall recover an
297 amount equal to the difference between payments made for all affected
298 rate periods and payments that would have been made if the interim
299 rate increase was not granted. The commissioner may seek recovery of
300 such payments from any facility with common ownership. With the
301 approval of the Secretary of the Office of Policy and Management, the
302 commissioner may waive recovery and rescission of the interim rate for
303 good cause shown that is not inconsistent with this section, including,
304 but not limited to, transfers to family members that were made for no
305 value. The commissioner shall provide written quarterly reports to the
306 joint standing committees of the General Assembly having cognizance
307 of matters relating to aging, human services and appropriations and the
308 budgets of state agencies, that identify each facility requesting an
309 interim rate increase, the amount of the requested rate increase for each
310 facility, the action taken by the commissioner and the secretary pursuant
311 to this subsection, and estimates of the additional cost to the state for
312 each approved interim rate increase. Nothing in this subsection shall
313 prohibit the commissioner from increasing the rate of a licensed chronic
314 and convalescent nursing home or a rest home with nursing supervision
315 for allowable costs associated with facility capital improvements or
316 increasing the rate in case of a sale of a licensed chronic and convalescent
317 nursing home or a rest home with nursing supervision if receivership

318 has been imposed on such home. For purposes of this section,
319 "temporary nursing services agency" and "nursing personnel" have the
320 same meaning as provided in section 19a-118.

321 Sec. 4. (NEW) (*Effective from passage*) The Commissioner of Social
322 Services shall develop a guidebook that includes, but need not be
323 limited to, a glossary and plain language explanation of the terms
324 relating to and a description of the Medicaid nursing home rate setting
325 process. Not later than July 1, 2024, the commissioner shall post the
326 guidebook in a conspicuous area on the Internet web site of the
327 Department of Social Services. The commissioner may update the
328 guidebook as deemed necessary.

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)
Sec. 4	<i>from passage</i>	New section

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	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill could result in a revenue gain 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. Fines must be paid to the General Fund and credited to the Medicaid account.

House "A" removes language allowing DSS to offset payments to a facility in order to collect penalties, which eliminates the associated potential cost savings to the agency. The amendment maintains the potential revenue gain to DSS associated with the collection of penalty payments.

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 (as amended by House "A")******AN ACT CONCERNING NURSING HOME TRANSPARENCY.*****SUMMARY**

This bill makes various changes related to nursing home oversight and the information these homes must give 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 give 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, including information on fees, expenses, and the fund's performance, and (2) the owner's audited and certified financial statements. 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). Existing law, unchanged by the bill, allows the DPH commissioner to require an applicant to submit additional information, including these statements.

The bill 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 extends the requirement to all of these types of nursing homes, not just for-profits.

The bill also requires the DSS commissioner to develop a guidebook that at least includes a glossary and a plain language (1) description of the Medicaid nursing home rate setting process and (2) explanation of terms related to it. The commissioner must post the guidebook in a conspicuous place on the agency's website by July 1, 2024, and may update it as needed.

*House Amendment "A" (1) changes the information required in nursing homes' expenditure narrative summaries, (2) requires the commissioner to develop a Medicaid nursing home rate setting guidebook, and (3) removes provisions that would have (a) allowed the DSS commissioner to collect penalties by offsetting payments due to a facility and (b) eliminated the income threshold at which nursing homes must report third-party expenditures.

EFFECTIVE DATE: July 1, 2023, except that the requirement for the DSS commissioner to develop a Medicaid nursing home rate setting guidebook is effective upon passage.

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 (1) profit and loss statements for the preceding three cost report years, (2) total revenue, (3) total expenditures, (4) total assets, (5) total liabilities, (6) short-term debt, (7) long-term debt, and (8) cash flows from investing, operating, and financing activities. Starting by January 1, 2024, the DSS commissioner must annually post these cost reports and summaries for each nursing home in a conspicuous place on the agency's website.

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. 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)