



General Assembly

January Session, 2023

Raised Bill No. 6678

LCO No. 4114



Referred to Committee on AGING

Introduced by:
(AGE)

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 department's Internet web site a link to (1) the annual cost reports and
16 the summaries provided by each nursing home facility, (2) comparisons

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

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

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 Section 19a-491a of the general statutes is repealed and the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

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

48 (1) (A) The name and business address of the owner and a statement

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

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

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

80 (4) (A) A statement as to whether or not the owner is, or is affiliated
81 with, a religious, charitable or other nonprofit organization; (B) the

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

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

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

95 ~~[(6)]~~ (7) If the operation of the nursing home has not yet commenced,
96 a statement of the anticipated source and application of the funds used
97 or to be used in the purchase or construction of the home, including:

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

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

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

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

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

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

141 (a) For purposes of this subsection, (1) a "related party" includes, but
142 is not limited to, any company related to a chronic and convalescent
143 nursing home through family association, common ownership, control
144 or business association with any of the owners, operators or officials of
145 such nursing home; (2) "company" means any person, partnership,

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

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

216 before February fifteenth by an amount not to exceed ten per cent of
217 such rate. If a licensed residential care home fails to submit a complete
218 and accurate report, the department shall notify such home of the failure
219 and the home shall have thirty days from the date the notice was issued
220 to submit a complete and accurate report. If a licensed residential care
221 home fails to submit a complete and accurate report not later than thirty
222 days after the date of notice, such home may not receive a retroactive
223 rate increase, in the commissioner's discretion. The commissioner shall,
224 annually, on or before April first, report the data contained in the reports
225 of such facilities on the department's Internet web site. For the cost
226 reporting year commencing October 1, 1985, and for subsequent cost
227 reporting years, facilities shall report the cost of using the services of any
228 nursing personnel supplied by a temporary nursing services agency by
229 separating said cost into two categories, the portion of the cost equal to
230 the salary of the employee for whom the nursing personnel supplied by
231 a temporary nursing services agency is substituting shall be considered
232 a nursing cost and any cost in excess of such salary shall be further
233 divided so that seventy-five per cent of the excess cost shall be
234 considered an administrative or general cost and twenty-five per cent of
235 the excess cost shall be considered a nursing cost, provided if the total
236 costs of a facility for nursing personnel supplied by a temporary nursing
237 services agency in any cost year are equal to or exceed fifteen per cent
238 of the total nursing expenditures of the facility for such cost year, no
239 portion of such costs in excess of fifteen per cent shall be classified as
240 administrative or general costs. The commissioner, in determining such
241 rates, shall also take into account the classification of patients or
242 boarders according to special care requirements or classification of the
243 facility according to such factors as facilities and services and such other
244 factors as the commissioner deems reasonable, including anticipated
245 fluctuations in the cost of providing such services. The commissioner
246 may establish a separate rate for a facility or a portion of a facility for
247 traumatic brain injury patients who require extensive care but not acute
248 general hospital care. Such separate rate shall reflect the special care
249 requirements of such patients. If changes in federal or state laws,
250 regulations or standards adopted subsequent to June 30, 1985, result in

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

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

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

To require (1) transparent cost reporting by nursing homes, and (2) disclosure of private equity ownership by applicants for nursing home licensure.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]