



House of Representatives

General Assembly

File No. 289

February Session, 2024

Substitute House Bill No. 5457

House of Representatives, April 4, 2024

The Committee on Human Services reported through REP. GILCHREST of the 18th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING NURSING HOME WAITING LISTS.

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

1 Section 1. Section 19a-533 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section, (1) "nursing home" means any chronic and
4 convalescent facility or any rest home with nursing supervision, as
5 defined in section 19a-521, which has a provider agreement with the
6 state to provide services to recipients of funds obtained through Title
7 XIX of the Social Security Amendments of 1965; and (2) "indigent
8 person" means any person who is eligible for or who is receiving
9 medical assistance benefits from the state.

10 (b) A nursing home which receives payment from the state for
11 rendering care to indigent persons; [shall:]

12 (1) [Be] Shall be prohibited from discriminating against indigent
13 persons who apply for admission to such facility on the basis of source
14 of payment. Except as otherwise provided by law, all applicants for
15 admission to such facility shall be admitted in the order in which such
16 applicants apply for admission as evidenced by the nursing home's

17 acceptance of a substantially completed application for admission. Each
18 nursing home shall (A) provide a receipt to each applicant who
19 substantially completes an application for admission to its facility who
20 requests placement on a waiting list stating the date and time of such
21 [request] substantial completion and acceptance of the application by
22 the nursing home, and (B) maintain a dated list of such applications
23 which shall be available at all times to any applicant, [his] the applicant's
24 bona fide representative, authorized personnel from the Departments of
25 Public Health and Social Services and such other state agencies or other
26 bodies established by state statute whose statutory duties necessitate
27 access to such lists. [If a nursing home desires to remove the name of an
28 applicant who is unresponsive to facility telephone calls and letters from
29 its waiting list, the nursing home may] A nursing home may maintain
30 such waiting list in electronic form. On and after July 1, 2025, a nursing
31 home shall maintain such waiting list in electronic form.

32 (2) Shall provide applications for admission to prospective residents
33 by mail, electronic transmission or Internet web site posting.

34 (3) Shall develop and implement policies and procedures related to
35 the waiting list that address (A) what information is required for such
36 application to be considered substantially completed and accepted by
37 the nursing home, (B) what steps the nursing home will take to protect
38 the privacy of information submitted by a prospective resident, and (C)
39 a description of how the integrity of information in the electronic
40 waiting list will be maintained, including steps taken to ensure accuracy
41 in recording of the (i) date and time a prospective resident is placed on
42 the waiting list, and (ii) any dated notification made pursuant to
43 subsection (c) of this section. A nursing home shall not be required to
44 maintain a list of inquiries from prospective residents who have not yet
45 submitted a substantially completed application for admission accepted
46 by the nursing home, nor to provide any such person with a receipt of
47 their inquiry.

48 (4) May, no sooner than ninety days after initial placement of the
49 person's name on the waiting list, inquire by letter [to] or electronic mail

50 of such applicant and any one person if designated by such applicant
51 whether the applicant desires continuation of [his] the applicant's name
52 on the waiting list. If the applicant does not respond and an additional
53 thirty days pass, the [facility] nursing home may remove such
54 applicant's name from its waiting list. A nursing home may annually
55 send a waiting list placement continuation [letter] communication by
56 letter or electronic mail to all persons on the waiting list for at least
57 ninety days to inquire as to whether such person desires continuation of
58 [his] the person's name on the waiting list, provided such [letter]
59 communication shall also be sent to any one person if designated by
60 such applicant. If such person does not respond and at least thirty days
61 pass, the facility may remove the person's name from its waiting list.
62 Indigent persons shall be placed on any waiting list for admission to a
63 facility and shall be admitted to the facility as vacancies become
64 available, in the same manner as self-pay applicants, except as provided
65 in subsections (f) and (g) of this section;

66 [(2) Post] (5) Shall post in a conspicuous place a notice informing
67 applicants for admission that the facility is prohibited by statute from
68 discriminating against indigent applicants for admission on the basis of
69 source of payment. Such notice shall advise applicants for admission of
70 the remedies available under this section and shall list the name, address
71 and telephone number of the ombudsman who serves the region in
72 which the facility is located;

73 [(3) Be] (6) Shall be prohibited from requiring that an indigent person
74 pay any sum of money or furnish any other consideration, including but
75 not limited to the furnishing of an agreement by the relative,
76 conservator or other responsible party of an indigent person which
77 obligates such party to pay for care rendered to an indigent person as a
78 condition for admission of such indigent person; and

79 [(4)] (7) [Record in the patient roster, maintained pursuant to the
80 Public Health Code, or in a separate roster maintained for this purpose,]
81 Shall maintain an electronic record of the number of patients who are
82 Medicare, Medicaid and private pay patients [on each day. Such

83 numbers shall be recorded daily and made] and make such information
84 available, upon request, to the state or regional ombudsman.

85 (c) Whenever a nursing home passes over the name of an applicant
86 on its waiting list and admits another applicant, the nursing home shall
87 make a dated notation on the electronic waiting list indicating why the
88 applicant who was passed over was not admitted. Upon the receipt of a
89 complaint concerning a violation of this section, the Department of
90 Social Services shall conduct an investigation into such complaint. A
91 nursing home shall provide access to the department and the State
92 Ombudsman to all records requested by the department or State
93 Ombudsman for the purpose of investigating a complaint by or on
94 behalf of an applicant related to the denial of an admission.

95 (d) The Department of Social Services is authorized to decrease the
96 daily reimbursement rate to a nursing home for one year for a violation
97 of this section which occurred during the twelve-month period covered
98 by the cost report upon which the per diem rate is calculated. The per
99 diem rate shall be reduced by one-quarter of one per cent for an initial
100 violation of this section and one per cent for each additional violation.

101 (e) Prior to imposing any sanction, the Department of Social Services
102 shall notify the nursing home of the alleged violation and the
103 accompanying sanction, and shall permit such facility to request an
104 administrative hearing, in accordance with sections 4-176e to 4-181a,
105 inclusive. A facility shall request such hearing within fifteen days of
106 receipt of the notice of violation from the Department of Social Services.
107 The department shall stay the imposition of any sanction pending the
108 outcome of the administrative hearing.

109 (f) A nursing home with a number of self-pay residents equal to or
110 less than thirty per cent of its total number of residents shall not be
111 required to admit an indigent person on a waiting list for admission
112 when a vacancy becomes available during the subsequent six months,
113 provided no bed may be held open for more than thirty days. Each such
114 nursing home meeting the conditions for such waiver shall on a
115 quarterly basis notify the Commissioner of Social Services and the

116 regional nursing home ombudsman office of the date on which such six-
117 month period of waiver began.

118 (g) A nursing home shall not be required to admit an indigent person
119 on a waiting list for admission when a vacancy becomes available if the
120 vacancy is in a private room.

121 (h) Notwithstanding the provisions of this section, a nursing home
122 may, without regard to the order of its waiting list, admit an applicant
123 who (1) seeks to transfer from a nursing home that is closing, or (2) seeks
124 to transfer from a nursing home in which the applicant was placed
125 following the closure of the nursing home where such applicant
126 previously resided or, in the case of a nursing home placed in
127 receivership, the anticipated closure of the nursing home where such
128 applicant previously resided, provided (A) the transfer occurs not later
129 than sixty days following the date that such applicant was transferred
130 from the nursing home where he or she previously resided, and (B) the
131 applicant submitted an application to the nursing home to which he or
132 she seeks admission at the time of the applicant's transfer from the
133 nursing home where he or she previously resided.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-533

Statement of Legislative Commissioners:

In Section 1(b)(1), "his" was changed to "[his] the applicant's" for internal consistency; in Section 1(b)(4) "his name" was changed to "[his] the person's name" for internal consistency; in Section 1(c), "such applicant" was changed to "the applicant who was passed over" for clarity and the title was changed.

HS Joint Favorable Subst. -LCO

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: None

Municipal Impact: None

Explanation

The bill, which makes various changes to waiting list requirements for Medicaid-certified nursing homes, is not anticipated to result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5457*****AN ACT CONCERNING NURSING HOME WAITING LISTS.*****SUMMARY**

This bill makes various changes to waiting list requirements for Medicaid-certified nursing homes. Current law generally requires nursing homes to (1) admit residents on a first-come, first-served basis, regardless of their payment source; (2) keep waiting lists of and admit applicants in the order they are received, with certain exceptions (e.g., an applicant directly transfers from a home that is closing); and (3) send receipts to applicants who ask to be placed on the waiting list that indicate the time and date of the request. The bill specifies that nursing homes must take these actions after accepting a “substantially completed” admissions application.

Additionally, the bill does the following:

1. allows nursing homes to keep electronic waiting lists and requires them to do so by July 1, 2025 (current regulation requires nursing homes to keep waiting lists in a single, bound book);
2. requires nursing homes to note on the electronic waiting list whenever they pass over an applicant and include the date and reason for doing so;
3. requires nursing homes to develop and implement waiting list policies and procedures that include, among other things, the information required to deem an admissions application “substantially completed”;
4. allows nursing homes to provide admissions applications to prospective residents electronically or by posting them on their websites, instead of only by mail as required under current

regulation;

5. allows nursing homes, when communicating with applicants about continuing their waiting list placement, to do so by email, instead of only by letter, as under current law;
6. specifies that nursing homes are not required to maintain a list of inquiries from prospective residents who have not submitted a substantially completed application or give them a receipt of their inquiry, which current regulation requires;
7. requires nursing homes to maintain their daily roster of residents by payment source (i.e., Medicare, Medicaid, or private pay) electronically, instead of in a single bound volume, as required under current regulation; and
8. requires nursing homes to give the Department of Social Services (DSS) and the Long-Term Care Ombudsman access to all records they request for an investigation by, or on behalf of, an applicant related to an admissions denial.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

WAITING LIST POLICIES AND PROCEDURES

Under the bill, nursing homes must develop and implement waiting list policies and procedures that do the following:

1. define information required for a home to consider an application “substantially completed” and accepted;
2. identify steps the home will take to protect the privacy of prospective residents’ information; and
3. describe how the home will keep the integrity of the electronic waiting list’s information, including steps taken to ensure the times, dates, and notifications of waiting list placements are

accurately recorded.

COMMUNICATIONS ON CONTINUED WAITING LIST PLACEMENTS

The bill allows nursing homes, when communicating with applicants about continuing their waiting list placement, to do so by email, instead of only by letter. As under current law, nursing homes may contact applicants, or their designees, (1) at least 90 days after placing them on the waiting list, to ask if they wish to remain on it and (2) annually, to give them a waiting list placement continuation notice if they have been on the list for more than 90 days.

Under current law, unchanged by the bill, nursing homes may remove applicants from the waiting list if they do not respond to these communications within 30 days.

COMMITTEE ACTION

Human Services Committee

Joint Favorable

Yea 22 Nay 0 (03/19/2024)