



General Assembly

Amendment

February Session, 2024

LCO No. 5056



Offered by:

REP. GARIBAY, 60th Dist.

SEN. HOCHADEL, 13th Dist.

To: Subst. House Bill No. 5046

File No. 611

Cal. No. 121

"AN ACT PROMOTING NURSING HOME RESIDENT QUALITY OF LIFE."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 19a-521b of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) Each licensed chronic and convalescent nursing home, chronic
6 disease hospital associated with a chronic and convalescent nursing
7 home, rest home with nursing supervision and residential care home
8 shall position beds in a manner that promotes resident care and that
9 provides at least a three-foot clearance at the sides and foot of each bed.
10 Such bed position shall (1) not act as a restraint to the resident, (2) not
11 create a hazardous situation, including, but not limited to, an
12 entrapment possibility, or obstacle to evacuation or being close to or
13 blocking a heat source, and (3) allow for infection control.

14 (b) On and after July 1, 2026, no licensed chronic and convalescent
15 nursing home or rest home with nursing supervision shall place a newly
16 admitted resident in a room containing more than two beds without
17 such resident's consent. A newly admitted resident may consent to be
18 placed in a room containing more than two beds by providing
19 affirmative written consent in a form and manner prescribed by the
20 State Ombudsman. Such consent shall not be effective until a
21 representative of the Office of the Long-term Care Ombudsman contacts
22 the resident and informs the resident of the resident's right not to be
23 placed in a room containing more than two beds. A resident who
24 provides affirmative written consent to be placed in a room with more
25 than two beds may revoke such consent in writing. Such revocation
26 shall be effective ninety days after the date on which the resident's
27 licensed chronic and convalescent nursing home or rest home with
28 nursing supervision received the written revocation. In the event of a
29 resident's revocation, a licensed chronic and convalescent nursing home
30 or rest home with nursing supervision shall place such resident in a
31 room with not more than two beds as soon as practicable after the
32 effective date of the resident's revocation. A violation of the
33 requirements of this subsection shall constitute a Class B violation under
34 section 19a-527, except no licensed chronic and convalescent nursing
35 home or rest home with nursing supervision shall incur more than one
36 violation per nonconsenting newly admitted resident in one calendar
37 year.

38 Sec. 2. Section 19a-533 of the general statutes is repealed and the
39 following is substituted in lieu thereof (*Effective July 1, 2024*):

40 (a) As used in this section, "nursing home" means any chronic and
41 convalescent facility or any rest home with nursing supervision, as
42 defined in section 19a-521, which has a provider agreement with the
43 state to provide services to recipients of funds obtained through Title
44 XIX of the Social Security Amendments of 1965; and "indigent person"
45 means any person who is eligible for or who is receiving medical
46 assistance benefits from the state.

47 (b) A nursing home which receives payment from the state for
48 rendering care to indigent persons shall:

49 (1) Be prohibited from discriminating against indigent persons who
50 apply for admission to such facility on the basis of source of payment.
51 Except as otherwise provided by law, all applicants for admission to
52 such facility shall be admitted in the order in which such applicants
53 apply for admission. Each nursing home shall (A) provide a receipt to
54 each applicant for admission to its facility who requests placement on a
55 waiting list stating the date and time of such request, and (B) maintain
56 a dated list of such applications which shall be available at all times to
57 any applicant, his bona fide representative, authorized personnel from
58 the Departments of Public Health and Social Services and such other
59 state agencies or other bodies established by state statute whose
60 statutory duties necessitate access to such lists. If a nursing home desires
61 to remove the name of an applicant who is unresponsive to facility
62 telephone calls and letters from its waiting list, the nursing home may,
63 no sooner than ninety days after initial placement of the person's name
64 on the waiting list, inquire by letter to such applicant and any one
65 person if designated by such applicant whether the applicant desires
66 continuation of his name on the waiting list. If the applicant does not
67 respond and an additional thirty days pass, the facility may remove
68 such applicant's name from its waiting list. A nursing home may
69 annually send a waiting list placement continuation letter to all persons
70 on the waiting list for at least ninety days to inquire as to whether such
71 person desires continuation of his name on the waiting list, provided
72 such letter shall also be sent to any one person if designated by such
73 applicant. If such person does not respond and at least thirty days pass,
74 the facility may remove the person's name from its waiting list. Indigent
75 persons shall be placed on any waiting list for admission to a facility and
76 shall be admitted to the facility as vacancies become available, in the
77 same manner as self-pay applicants, except as provided in subsections
78 (f) and (g) of this section;

79 (2) Post in a conspicuous place a notice informing applicants for
80 admission that the facility is prohibited by statute from discriminating

81 against indigent applicants for admission on the basis of source of
82 payment. Such notice shall advise applicants for admission of the
83 remedies available under this section and shall list the name, address
84 and telephone number of the ombudsman who serves the region in
85 which the facility is located;

86 (3) Be prohibited from requiring that an indigent person pay any sum
87 of money or furnish any other consideration, including, but not limited
88 to, the furnishing of an agreement by the relative, conservator or other
89 responsible party of an indigent person which obligates such party to
90 pay for care rendered to an indigent person as a condition for admission
91 of such indigent person;

92 (4) Record in the patient roster, maintained pursuant to the Public
93 Health Code, or in a separate roster maintained for this purpose, the
94 number of patients who are Medicare, Medicaid and private pay
95 patients on each day. Such numbers shall be recorded daily and made
96 available, upon request, to the state or regional ombudsman.

97 (c) Upon the receipt of a complaint concerning a violation of this
98 section, the Department of Social Services shall conduct an investigation
99 into such complaint.

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

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

113 outcome of the administrative hearing.

114 (f) A nursing home with a number of self-pay residents equal to or
115 less than thirty per cent of its total number of residents shall not be
116 required to admit an indigent person on a waiting list for admission
117 when a vacancy becomes available during the subsequent six months,
118 provided (1) no bed may be held open for more than thirty days, [Each
119 such nursing home meeting the conditions for such waiver shall on a
120 quarterly basis notify] and (2) the nursing home notifies the
121 Commissioner of Social Services and the regional nursing home
122 ombudsman office [of] on the date on which such six-month period of
123 [waiver began] waiting list exemption began and thereafter on a
124 quarterly basis if the conditions for exemption still apply.

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

128 (h) Notwithstanding the provisions of this section, a nursing home
129 [may] shall, without regard to the order of its waiting list, admit an
130 applicant who (1) seeks to transfer from a nursing home that is closing,
131 or (2) seeks to transfer from a nursing home in which the applicant was
132 placed following the closure of the nursing home where such applicant
133 previously resided or, in the case of a nursing home placed in
134 receivership, the anticipated closure of the nursing home where such
135 applicant previously resided, provided (A) the transfer occurs not later
136 than sixty days following the date that such applicant was transferred
137 from the nursing home where he or she previously resided, and (B)
138 except when the nursing home that is closing transferred the resident
139 due to an emergency, the applicant submitted an application to the
140 nursing home to which he or she seeks admission at the time of the
141 applicant's transfer from the nursing home where he or she previously
142 resided. A nursing home that qualifies for a waiting list exemption
143 pursuant to subsection (f) or (g) of this section shall not be required to
144 admit an indigent person under this subsection except when the
145 resident is being transferred from a nursing home that is closing due to

146 an emergency. No nursing home shall be required to admit an applicant
147 pursuant to the provisions of this subsection if the nursing home has
148 determined that (i) the applicant does not have a payor source because
149 the applicant has been denied Medicaid eligibility or the applicant has
150 failed to pay a nursing home that is closing for the three months
151 preceding the date of the application for admittance and has no pending
152 application for Medicaid, (ii) the applicant is subject to a Medicaid
153 penalty period, or (iii) the applicant does not require nursing home level
154 of care as determined in accordance with applicable state and federal
155 requirements.

156 Sec. 3. (NEW) (*Effective from passage*) The Commissioner of Public
157 Health shall not grant any new license to establish, conduct or operate a
158 rest home with nursing supervision on and after the effective date of
159 this section. Notwithstanding the provisions of this section, the
160 commissioner may, upon application by a rest home with nursing
161 supervision, approve a one-time renewal for not more than one year of
162 a license that expires on or after the effective date of this section,
163 provided the rest home is in compliance with the requirements for such
164 renewal. The denial of such a renewal shall not be subject to an appeal
165 under section 19a-501 of the general statutes.

166 Sec. 4. Subsections (a) and (b) of section 17b-352 of the general statutes
167 are repealed and the following is substituted in lieu thereof (*Effective*
168 *from passage*):

169 (a) For the purposes of this section and section 17b-353, "facility"
170 means a residential facility for persons with intellectual disability
171 licensed pursuant to section 17a-277 and certified to participate in the
172 Title XIX Medicaid program as an intermediate care facility for
173 individuals with intellectual disabilities, a nursing home, rest home or
174 residential care home, as defined in section 19a-490. "Facility" does not
175 include a nursing home that does not participate in the Medicaid
176 program and is associated with a continuing care facility as described in
177 section 17b-520.

178 (b) Any facility which intends to (1) transfer all or part of its
179 ownership or control prior to being initially licensed; (2) introduce any
180 additional function or service into its program of care or expand an
181 existing function or service; (3) terminate a service or decrease
182 substantially its total licensed bed capacity; or (4) relocate all or a portion
183 of such facility's licensed beds, to a new facility or replacement facility,
184 shall submit a complete request for permission to implement such
185 transfer, addition, expansion, increase, termination, decrease or
186 relocation of facility beds to the Department of Social Services with such
187 information as the department requires, provided no permission or
188 request for permission [to close a facility] is required (A) to close a
189 facility when a facility in receivership is closed by order of the Superior
190 Court pursuant to section 19a-545, or (B) to change a facility's licensure
191 as a rest home with nursing supervision to licensure as a chronic and
192 convalescent nursing home. The Commissioner of Social Services shall
193 consider the criteria in subdivisions (3) and (4) of subsection (a) of
194 section 17b-354 when evaluating a certificate of need request to relocate
195 licensed nursing facility beds from an existing facility to another
196 licensed nursing facility or to a new facility or replacement facility. The
197 Office of the Long-Term Care Ombudsman pursuant to section 17a-870
198 shall be notified by the facility of any proposed actions pursuant to this
199 subsection at the same time the request for permission is submitted to
200 the department and when a facility in receivership is closed by order of
201 the Superior Court pursuant to section 19a-545.

202 Sec. 5. Section 17b-357 of the general statutes is repealed and the
203 following is substituted in lieu thereof (*Effective from passage*):

204 (a) For purposes of this section and sections 17b-358 to 17b-360,
205 inclusive, a "nursing facility" means a chronic and convalescent home or
206 a rest home with nursing supervision as defined in section 19a-521,
207 which participates in the Medicaid program through a provider
208 agreement with the Department of Social Services.

209 (b) If the Department of Public Health finds, through the results of a
210 survey, that a nursing facility is not in compliance with one or more of

211 the requirements of Subsections (b), (c) and (d) of 42 USC 1396r, or the
212 requirements of applicable state statutes or regulations, and that such
213 noncompliance poses an immediate and serious threat to patient health
214 or safety, the Department of Public Health shall issue a statement of
215 charges to the facility and shall file a copy of the charges with the
216 Department of Social Services with a request for a summary order from
217 the Department of Social Services. The summary order which the
218 Department of Social Services may issue shall include termination of the
219 facility's participation in Medicaid or appointment of a temporary
220 manager to oversee the operation of the facility and may include
221 transfer of patients to other participating facilities; denial of payment
222 under Medicaid for new admissions; imposition of a directed plan of
223 correction of the facility's deficiencies; imposition of civil monetary
224 penalties; or imposition of other remedies authorized by regulations
225 adopted by the Department of Social Services in accordance with
226 chapter 54.

227 (c) If the Department of Public Health finds, through the results of a
228 survey, that a nursing facility is not in compliance with one or more of
229 the requirements of Subsections (b), (c) and (d) of 42 USC 1396r, or the
230 requirements of applicable state statutes or regulations, but that such
231 noncompliance does not pose an immediate and obvious threat to
232 patient health or safety, the Department of Public Health shall issue a
233 statement of charges to the facility and shall file a copy of the charges
234 with the Department of Social Services with a request for an order
235 imposing one or more alternative remedies under this subsection. If the
236 Department of Social Services finds, based on a statement of charges
237 filed by the Department of Public Health, that a nursing facility is not in
238 compliance with one or more of the requirements of Subsections (b), (c)
239 and (d) of 42 USC 1396r, or the requirements of applicable state statutes
240 or regulations, but does not issue a summary order, it may impose one
241 or more of the following alternative remedies: Termination of the
242 facility's participation in Medicaid; appointment of a temporary
243 manager to oversee the operation of the facility; transfer of patients to
244 other participating facilities; denial of payment under Medicaid for new

245 admissions; imposition of a directed plan of correction of the facility's
246 deficiencies; imposition of civil monetary penalties; or imposition of
247 other remedies authorized by regulations adopted by the Department
248 of Social Services in accordance with chapter 54. The civil monetary
249 penalties imposed may be in the range of three thousand two hundred
250 fifty dollars to ten thousand dollars per day for each day the facility is
251 found to be out of compliance with one or more requirements of
252 Subsections (b), (c) and (d) of 42 USC 1396r if the failure to comply with
253 such requirements is found to constitute an immediate and serious
254 threat to resident health or safety, or in the range of two hundred dollars
255 to three thousand dollars per day for each day the facility is found to be
256 out of compliance with a requirement of Subsections (b), (c) and (d) of
257 42 USC 1396r that is found not to constitute an immediate and serious
258 threat to resident health or safety. The exact civil monetary penalty will
259 be set depending on such factors as the existence of repeat deficiencies
260 or uncorrected deficiencies and the overall compliance history of the
261 provider. The remedies available to the Department of Social Services
262 for violations of the requirements of Subsections (b), (c) and (d) of 42
263 USC 1396r are cumulative and are in addition to the remedies available
264 to the Department of Public Health under chapter 368v for violations of
265 state licensure requirements. Any penalties collected by the Department
266 of Social Services pursuant to this section shall be deposited in a special
267 fund under the control of the Department of Social Services, which fund
268 shall be utilized, in the discretion of the department, for the protection
269 of the health or property of residents of nursing facilities found to be
270 deficient, including payment for the costs of relocating residents,
271 payment for the maintenance of operation of a facility pending
272 correction of deficiencies or closure, and reimbursement of residents for
273 personal funds lost. The deficient nursing facility shall be obligated to
274 reimburse the Department of Social Services for any moneys expended
275 by the department at the facility from the fund established pursuant to
276 this section.

277 (d) The facility may request a hearing in accordance with the
278 provisions of chapter 54 from the Department of Social Services within

279 ten days of the issuance of the statement of charges or the summary
280 order, as the case may be. If the facility does not request a hearing within
281 ten days and no summary order has been issued, the Department of
282 Social Services shall automatically adopt the Department of Public
283 Health's findings and shall issue an order incorporating one or more of
284 the remedies authorized by subsection (c) of this section. If the facility
285 timely requests a hearing or the Department of Social Services issues a
286 summary order, the Department of Social Services shall issue a notice of
287 hearing. At such hearing the facility shall be given the opportunity to
288 present evidence and cross-examine witnesses. The Department of
289 Social Services shall issue a decision based on the administrative record
290 and may, if it finds the facility not in compliance with one or more of the
291 requirements of Subsections (b), (c) and (d) of 42 USC 1396r, or the
292 requirements of applicable state statutes or regulations, order any of the
293 remedies specified in this section. The Department of Social Services
294 may impose any of the alternative remedies, except for a civil monetary
295 penalty, during the pendency of any proceedings conducted pursuant
296 to this subsection. In such cases, the Department of Social Services must
297 provide the facility the opportunity to discuss the Department of Public
298 Health's findings at an informal conference prior to the imposition of
299 any remedy. The requirement of an informal conference does not apply
300 to summary order proceedings.

301 Sec. 6. Subsection (b) of section 19a-496 of the general statutes is
302 repealed and the following is substituted in lieu thereof (*Effective from*
303 *passage*):

304 (b) The department may inspect an institution to determine
305 compliance with applicable state statutes and regulations. Upon a
306 finding of noncompliance with such statutes or regulations, the
307 department shall issue a written notice of noncompliance to the
308 institution. Not later than ten business days after such institution
309 receives a notice of noncompliance, the institution shall submit a plan of
310 correction to the department in response to the items of noncompliance
311 identified in such notice. The plan of correction shall include: (1) The
312 measures that the institution intends to implement or systemic changes

313 that the institution intends to make to prevent a recurrence of each
314 identified issue of noncompliance; (2) the date each such corrective
315 measure or change by the institution is effective; (3) the institution's plan
316 to monitor its quality assessment and performance improvement
317 functions to ensure that the corrective measure or systemic change is
318 sustained; and (4) the title of the institution's staff member that is
319 responsible for ensuring the institution's compliance with its plan of
320 correction. The plan of correction shall be deemed to be the institution's
321 representation of compliance with the identified state statutes or
322 regulations identified in the department's notice of noncompliance. The
323 failure of the institution to comply with a plan of correction accepted by
324 the department may be the subject of disciplinary action against the
325 institution pursuant to section 19a-494. Any institution that fails to
326 submit a plan of correction that meets the requirements of this section
327 may be subject to disciplinary action.

328 Sec. 7. Section 19a-700 of the general statutes is repealed and the
329 following is substituted in lieu thereof (*Effective from passage*):

330 (a) A managed residential community shall enter into a written
331 residency agreement with each resident that clearly sets forth the rights
332 and responsibilities of the resident and the managed residential
333 community, including the duties set forth in section 19a-562. The
334 residency agreement shall be set forth in plain language and printed in
335 not less than fourteen-point type. The residency agreement shall be
336 signed by the managed residential community's authorized agent and
337 by the resident, or the resident's legal representative, prior to the
338 resident taking possession of a private residential unit and shall include,
339 at a minimum:

340 (1) An itemization of assisted living services, transportation services,
341 recreation services and any other services and goods, lodging and meals
342 to be provided on behalf of the resident by the managed residential
343 community;

344 (2) A full and fair disclosure of all charges, fees, expenses and costs

345 to be borne by the resident including, for written residency agreements
346 entered into on and after October 1, 2024, nonrefundable charges, fees,
347 expenses and costs;

348 (3) A schedule of payments and disclosure of all late fees or potential
349 penalties;

350 (4) For written residency agreements entered into on and after
351 October 1, 2024, the manner in which the managed residential
352 community may adjust monthly fees or other recurring fees, including,
353 but not limited to, (A) how often fee increases may occur, (B) the
354 schedule or specific dates of such increases, and (C) the history of fee
355 increases over the past three calendar years;

356 [(4)] (5) The grievance procedure with respect to enforcement of the
357 terms of the residency agreement;

358 [(5)] (6) The managed residential community's covenant to comply
359 with all municipal, state and federal laws and regulations regarding
360 consumer protection and protection from financial exploitation;

361 [(6)] (7) The managed residential community's covenant to afford
362 residents all rights and privileges afforded under title 47a;

363 [(7)] (8) The conditions under which the agreement can be terminated
364 by either party;

365 [(8)] (9) Full disclosure of the rights and responsibilities of the
366 resident and the managed residential community in situations
367 involving serious deterioration in the health of the resident,
368 hospitalization of the resident or death of the resident, including a
369 provision that specifies that in the event that a resident of the
370 community dies, the estate or family of such resident shall only be
371 responsible for further payment to the community for a period of time
372 not to exceed fifteen days following the date of death of such resident as
373 long as the private residential unit formerly occupied by the resident
374 has been vacated; and

375 ~~[(9)]~~ (10) Any adopted rules of the managed residential community
376 reasonably designed to promote the health, safety and welfare of
377 residents.

378 (b) The provisions of subdivisions (2) and (4) of subsection (a) of this
379 section shall not apply to a managed residential community that is (1)
380 an elderly housing complex receiving assistance and funding through
381 the United States Department of Housing and Urban Development's
382 Assisted Living Conversion Program, or (2) a demonstration project for
383 the provision of subsidized assisted living services pursuant to section
384 17b-347e.

385 Sec. 8. Section 19a-694 of the 2024 supplement to the general statutes
386 is repealed and the following is substituted in lieu thereof (*Effective*
387 *October 1, 2024*):

388 (a) All managed residential communities operating in the state shall:

389 (1) Provide a written residency agreement to each resident in
390 accordance with section 19a-700, as amended by this act;

391 (2) Provide residents or residents' representatives advance notice of
392 ninety days of any increase to monthly or recurring fees and disclose in
393 writing any nonrefundable charges;

394 (3) Provide residents prorated or full reimbursements of certain
395 charges if the managed residential community determines it can no
396 longer meet the resident's needs during the first forty-five days after
397 occupancy by the resident of the managed residential community unit,
398 including, but not limited to, prorated first month's rent, prorated
399 community fee, full last month's rent and full security deposit;

400 ~~[(2)]~~ (4) Afford residents the ability to access services provided by an
401 assisted living services agency. Such services shall be provided in
402 accordance with a service plan developed in accordance with section
403 19a-699;

404 ~~[(3)]~~ (5) Upon the request of a resident, arrange, in conjunction with

405 the assisted living services agency, for the provision of ancillary medical
406 services on behalf of a resident, including physician and dental services,
407 pharmacy services, restorative physical therapies, podiatry services,
408 hospice care and home health agency services, provided the ancillary
409 medical services are not administered by employees of the managed
410 residential community, unless the resident chooses to receive such
411 services;

412 ~~[(4)]~~ (6) Provide a formally established security program for the
413 protection and safety of residents that is designed to protect residents
414 from intruders;

415 ~~[(5)]~~ (7) Afford residents the rights and privileges guaranteed under
416 title 47a;

417 ~~[(6)]~~ (8) Comply with the provisions of subsection (c) of section 19-13-
418 D105 of the regulations of Connecticut state agencies;

419 ~~[(7)]~~ (9) Assist a resident who has a long-term care insurance policy
420 with preparing and submitting claims for benefits to the insurer,
421 provided such resident has executed a written authorization requesting
422 and directing the insurer to (A) disclose information to the managed
423 residential community relevant to such resident's eligibility for an
424 insurance benefit or payment, and (B) provide a copy of the acceptance
425 or declination of a claim for benefits to the managed residential
426 community at the same time such acceptance or declination is made to
427 such resident; and

428 ~~[(8) On or before January 1, 2024, encourage]~~ (10) Encourage and
429 assist in the establishment of a family council in managed residential
430 communities offering assisted living services. Such family council shall
431 not allow a family member or friend of a resident who is not a resident
432 of a dementia special care unit to participate in the family council
433 without the consent of such resident.

434 (b) The provisions of subdivisions (2) and (3) of subsection (a) of this
435 section shall not apply to a managed residential community that is (1)

436 an elderly housing complex receiving assistance and funding through
437 the United States Department of Housing and Urban Development's
438 Assisted Living Conversion Program, or (2) a demonstration project for
439 the provision of subsidized assisted living services pursuant to section
440 17b-347e.

441 [(b)] (c) No managed residential community shall control or manage
442 the financial affairs or personal property of any resident, except as
443 provided for in subdivision [(7)] (9) of subsection (a) of this section.

444 Sec. 9. Subsection (e) of section 19a-564 of the 2024 supplement to the
445 general statutes is repealed and the following is substituted in lieu
446 thereof (*Effective October 1, 2024*):

447 (e) An assisted living services agency shall: [ensure that] (1) Ensure
448 that all services being provided on an individual basis to clients are fully
449 understood and agreed upon between either the client or the client's
450 representative; [, and] (2) ensure that the client or the client's
451 representative are made aware of the cost of any such services; (3)
452 disclose fee increases to a resident or a resident's representative not later
453 than sixty days prior to such fees taking effect; and (4) provide, upon
454 request, to a resident and a resident's representative the history of fee
455 increases over the past three calendar years. Nothing in this subsection
456 shall be construed to limit an assisted living services agency from
457 immediately adjusting fees to the extent such adjustments are directly
458 related to a change in the level of care or services necessary to meet
459 individual resident safety needs at the time of a scheduled resident care
460 meeting or if a resident's change of condition requires a change in
461 services.

462 Sec. 10. Section 17b-99a of the general statutes is repealed and the
463 following is substituted in lieu thereof (*Effective from passage*):

464 (a) (1) For purposes of this section, (A) "extrapolation" means the
465 determination of an unknown value by projecting the results of the
466 review of a sample to the universe from which the sample was drawn,
467 (B) "facility" means any facility described in this subsection and for

468 which rates are established pursuant to section 17b-340 or 17b-340d,
469 [and] (C) "universe" means a defined population of claims submitted by
470 a facility during a specific time period, and (D) "forensic audit" means
471 an examination of financial records for information or evidence that
472 may be used in a legal proceeding.

473 (2) The Commissioner of Social Services shall conduct any audit,
474 including a forensic audit, of a licensed chronic and convalescent
475 nursing home, chronic disease hospital associated with a chronic and
476 convalescent nursing home, a rest home with nursing supervision, a
477 licensed residential care home, as defined in section 19a-490, and a
478 residential facility for persons with intellectual disability which is
479 licensed pursuant to section 17a-227 and certified to participate in the
480 Medicaid program as an intermediate care facility for individuals with
481 intellectual disabilities in accordance with the provisions of this section.

482 (b) Not less than thirty days prior to the commencement of any such
483 audit, the commissioner shall provide written notification of the audit
484 to such facility, unless the commissioner makes a good-faith
485 determination that (1) the health or safety of a recipient of services is at
486 risk; or (2) the facility is engaging in vendor fraud under sections 53a-
487 290 to 53a-296, inclusive.

488 (c) Any clerical error, including, but not limited to, recordkeeping,
489 typographical, scrivener's or computer error, discovered in a record or
490 document produced for any such audit, shall not of itself constitute a
491 wilful violation of the rules of a medical assistance program
492 administered by the Department of Social Services unless proof of intent
493 to commit fraud or otherwise violate program rules is established. In
494 determining which facilities shall be subject to audits, the Commissioner
495 of Social Services may give consideration to the history of a facility's
496 compliance in addition to other criteria used to select a facility for an
497 audit.

498 (d) A finding of overpayment or underpayment to such facility shall
499 not be based on extrapolation unless (1) there is a determination of

500 sustained or high level of payment error involving the facility, (2)
501 documented educational intervention has failed to correct the level of
502 payment error, or (3) the value of the claims in aggregate exceeds two
503 hundred thousand dollars on an annual basis.

504 (e) A facility, in complying with the requirements of any such audit,
505 shall be allowed not less than thirty days to provide documentation in
506 connection with any discrepancy discovered and brought to the
507 attention of such facility in the course of any such audit.

508 (f) The commissioner shall produce a preliminary written report
509 concerning any audit conducted pursuant to this section and such
510 preliminary report shall be provided to the facility that was the subject
511 of the audit not later than sixty days after the conclusion of such audit.

512 (g) The commissioner shall, following the issuance of the preliminary
513 report pursuant to subsection (f) of this section, hold an exit conference
514 with any facility that was the subject of any audit pursuant to this
515 subsection for the purpose of discussing the preliminary report. Such
516 facility may present evidence at such exit conference refuting findings
517 in the preliminary report.

518 (h) The commissioner shall produce a final written report concerning
519 any audit conducted pursuant to this subsection. Such final written
520 report shall be provided to the facility that was the subject of the audit
521 not later than sixty days after the date of the exit conference conducted
522 pursuant to subsection (g) of this section, unless the commissioner and
523 the facility agree to a later date or there are other referrals or
524 investigations pending concerning the facility.

525 (i) Any facility aggrieved by a final report issued pursuant to
526 subsection (h) of this section may request a rehearing. A rehearing shall
527 be held by the commissioner or the commissioner's designee, provided
528 a detailed written description of all items of aggrievement in the final
529 report is filed by the facility not later than ninety days following the date
530 of written notice of the commissioner's decision. The rehearing shall be
531 held not later than thirty days following the date of filing of the detailed

532 written description of each specific item of aggrievement. The
533 commissioner shall issue a final decision not later than sixty days
534 following the close of evidence or the date on which final briefs are filed,
535 whichever occurs later. Any items not resolved at such rehearing to the
536 satisfaction of the facility or the commissioner shall be submitted to
537 binding arbitration by an arbitration board consisting of one member
538 appointed by the facility, one member appointed by the commissioner
539 and one member appointed by the Chief Court Administrator from
540 among the retired judges of the Superior Court, which retired judge
541 shall be compensated for his services on such board in the same manner
542 as a state referee is compensated for his services under section 52-434.
543 The proceedings of the arbitration board and any decisions rendered by
544 such board shall be conducted in accordance with the provisions of the
545 Social Security Act, 42 USC 1396, as amended from time to time, and
546 chapter 54.

547 (j) The submission of any false or misleading fiscal information or
548 data to the commissioner shall be grounds for suspension of payments
549 by the state under sections 17b-239 to 17b-246, inclusive, and sections
550 17b-340, and 17b-343, in accordance with regulations adopted by the
551 commissioner. In addition, any person, including any corporation, who
552 knowingly makes or causes to be made any false or misleading
553 statement or who knowingly submits false or misleading fiscal
554 information or data on the forms approved by the commissioner shall
555 be guilty of a class D felony.

556 (k) The commissioner, or any agent authorized by the commissioner
557 to conduct any inquiry, investigation or hearing under the provisions of
558 this section, shall have power to administer oaths and take testimony
559 under oath relative to the matter of inquiry or investigation. At any
560 hearing ordered by the commissioner, the commissioner or such agent
561 having authority by law to issue such process may subpoena witnesses
562 and require the production of records, papers and documents pertinent
563 to such inquiry. If any person disobeys such process or, having
564 appeared in obedience thereto, refuses to answer any pertinent question
565 put to the person by the commissioner or the commissioner's authorized

566 agent or to produce any records and papers pursuant thereto, the
567 commissioner or the commissioner's agent may apply to the superior
568 court for the judicial district of Hartford or for the judicial district
569 wherein the person resides or wherein the business has been conducted,
570 or to any judge of such court if the same is not in session, setting forth
571 such disobedience to process or refusal to answer, and such court or
572 judge shall cite such person to appear before such court or judge to
573 answer such question or to produce such records and papers.

574 (l) The commissioner shall provide free training to facilities on the
575 preparation of cost reports to avoid clerical errors and shall post
576 information on the department's Internet web site concerning the
577 auditing process and methods to avoid clerical errors. Not later than
578 April 1, 2015, the commissioner shall establish audit protocols to assist
579 facilities subject to audit pursuant to this section in developing
580 programs to improve compliance with Medicaid requirements under
581 state and federal laws and regulations, provided audit protocols may
582 not be relied upon to create a substantive or procedural right or benefit
583 enforceable at law or in equity by any person, including a corporation.
584 The commissioner shall establish and publish on the department's
585 Internet web site audit protocols for: (1) Licensed chronic and
586 convalescent nursing homes, (2) chronic disease hospitals associated
587 with chronic and convalescent nursing homes, (3) rest homes with
588 nursing supervision, (4) licensed residential care homes, as defined in
589 section 19a-490, and (5) residential facilities for persons with intellectual
590 disability that are licensed pursuant to section 17a-227 and certified to
591 participate in the Medicaid program as intermediate care facilities for
592 individuals with intellectual disabilities. The commissioner shall ensure
593 that the Department of Social Services, or any entity with which the
594 commissioner contracts to conduct an audit pursuant to this section, has
595 on staff or consults with, as needed, licensed health professionals with
596 experience in treatment, billing and coding procedures used by the
597 facilities being audited pursuant to this section.

598 (m) (1) The commissioner shall not conduct a forensic audit of a
599 facility unless the commissioner (A) provides the facility with an

600 opportunity to meet with Department of Social Services representatives
601 and respond to any financial concerns identified by the commissioner,
602 and (B) makes a good faith determination that a forensic audit of such
603 facility is necessary to evaluate such financial concerns.

604 (2) If a facility receives a written request by the department to
605 cooperate and assist with a forensic audit, such facility shall cooperate
606 and assist not more than ten business days after the date the facility
607 receives such request and shall ensure that all facility personnel,
608 financial consultants and accountants fully cooperate and assist with a
609 forensic audit as may be necessary, except no facility shall be required
610 to divert facility personnel from residential care duties and
611 responsibilities to cooperate and assist with such forensic audit. Ten
612 days after a facility receives a written request by the department to
613 cooperate and assist with a forensic audit, a facility shall be subject to a
614 civil monetary penalty not to exceed one thousand dollars per day for
615 each business day that the facility fails to comply with such written
616 request. A facility may request a fair hearing on the assessment of any
617 such civil monetary penalty as an aggrieved person pursuant to section
618 17b-60.

619 (3) A facility may be liable to the Department of Social Services for
620 the costs of a forensic audit of a facility identified by the department as
621 experiencing a serious financial loss, including, but not limited to, any
622 reports or subsequent testimony related thereto, provided liability for
623 such costs shall not exceed one hundred thousand dollars in the
624 aggregate if more than one facility is subject to a particular forensic
625 audit.

626 (n) The department may recover (1) subject to the provisions of
627 subdivision (3) of subsection (m) of this section, the costs of any forensic
628 audit conducted pursuant to the provisions of this section from a facility
629 if such forensic audit identifies material issues with a facility's internal
630 financial management or the integrity of a facility's financial statements,
631 or (2) civil monetary penalties assessed against a facility in accordance
632 with subdivision (2) of subsection (m) of this section through

633 recoupment of such forensic audit costs or civil monetary penalties
634 against funds that would otherwise be paid to such facility for services
635 rendered to recipients of assistance under the Medicaid program.

636 Sec. 11. Section 19a-543 of the general statutes is repealed and the
637 following is substituted in lieu thereof (*Effective from passage*):

638 The court shall grant an application for the appointment of a receiver
639 for a nursing home facility or residential care home upon a finding of
640 any of the following: (1) Such facility or home is operating without a
641 license issued pursuant to this chapter or such facility's or home's license
642 has been suspended or revoked pursuant to section 19a-494; (2) such
643 facility or home intends to close and adequate arrangements for
644 relocation of its residents have not been made at least thirty days prior
645 to closing; (3) such facility or home has sustained a serious financial loss
646 or failure [which jeopardizes the health, safety and welfare of the
647 patients] or there is a reasonable likelihood of such loss or failure; or (4)
648 there exists in such facility a condition in substantial violation of the
649 Public Health Code, or any other applicable state statutes, or Title XVIII
650 or XIX of the federal Social Security Act, 42 USC 301, as amended, or any
651 regulation adopted pursuant to such state or federal laws.

652 Sec. 12. Section 19a-547 of the general statutes is repealed and the
653 following is substituted in lieu thereof (*Effective from passage*):

654 (a) The court may appoint any responsible individual whose name is
655 proposed by the Commissioner of Public Health and the Commissioner
656 of Social Services to act as a receiver. [For a nursing home facility, such
657 individual shall be a nursing home facility administrator licensed in the
658 state of Connecticut with substantial experience in operating
659 Connecticut nursing homes. For a residential care home, such
660 individual shall have experience as a residential care home
661 administrator or, if there is no such individual, such individual shall
662 have experience in the state similar to that of a residential care home
663 administrator. The Commissioner of Social Services shall adopt
664 regulations governing qualifications for proposed receivers consistent

665 with this subsection.] Such individual shall (1) be a nursing home
666 facility administrator licensed pursuant to the provisions of sections
667 19a-511 to 19a-520, inclusive, or (2) have substantial experience in the
668 delivery of high-quality health care services and successful
669 management or operation of long-term care facilities, and have achieved
670 an educational level or have such licensure as customarily is held by
671 persons managing or operating health care facilities similar to the
672 facility or facilities subject to receivership. No state employee or owner,
673 administrator or other person with a financial interest in the nursing
674 home facility or residential care home may serve as a receiver for that
675 nursing home facility or residential care home. No person appointed to
676 act as a receiver shall be permitted to have a current financial interest in
677 the nursing home facility or residential care home; nor shall such person
678 appointed as a receiver be permitted to have a financial interest in the
679 nursing home facility or residential care home for a period of five years
680 from the date the receivership ceases.

681 (b) The court may remove such receiver in accordance with section
682 52-513. A nursing home facility or residential care home receiver
683 appointed pursuant to this section shall be entitled to a reasonable
684 receiver's fee as determined by the court. The receiver shall be liable
685 only in the receiver's official capacity for injury to person and property
686 by reason of the conditions of the nursing home facility or residential
687 care home. The receiver shall not be personally liable, except for acts or
688 omissions constituting gross, wilful or wanton negligence.

689 (c) The court, in its discretion, may require a bond of such receiver in
690 accordance with section 52-506.

691 (d) The court may require the Commissioner of Public Health to
692 provide for the payment of any receiver's fees authorized in subsection
693 (a) of this section upon a showing by such receiver to the satisfaction of
694 the court that (1) the assets of the nursing home facility or residential
695 care home are not sufficient to make such payment, and (2) no other
696 source of payment is available, including the submission of claims in a
697 bankruptcy proceeding. The state shall have a claim for any court-

698 ordered fees and expenses of the receiver that shall have priority over
699 all other claims of secured and unsecured creditors and other persons
700 whether or not such nursing home facility or residential care home is in
701 bankruptcy, to the extent allowed under state or federal law.

702 Sec. 13. Section 19a-561 of the general statutes is repealed and the
703 following is substituted in lieu thereof (*Effective from passage*):

704 (a) As used in this section, (1) "nursing facility management services"
705 means services provided in a nursing facility to manage the operations
706 of such facility, including the provision of care and services, [and] (2)
707 "nursing facility management services certificate holder" means a
708 person or entity certified by the Department of Public Health to provide
709 nursing facility management services, and (3) "managed facility" means
710 a nursing facility that receives nursing facility management services
711 from a nursing facility management services certificate holder.

712 (b) No person or entity shall provide nursing facility management
713 services in this state without obtaining a certificate from the Department
714 of Public Health.

715 (c) Any person or entity seeking a certificate to provide nursing
716 facility management services shall apply to the department, in writing,
717 on a form and in the manner prescribed by the department. Such
718 application shall include the following:

719 (1) (A) The name and business address of the applicant and whether
720 the applicant is an individual, partnership, corporation or other legal
721 entity; (B) if the applicant is a partnership, corporation or other legal
722 entity, the names of the officers, directors, trustees, managing and
723 general partners of the applicant, the names of the persons who have a
724 [ten] five per cent or greater beneficial ownership interest in the
725 partnership, corporation or other legal entity, and a description of each
726 such person's relationship to the applicant; (C) if the applicant is a
727 corporation incorporated in another state, a certificate of good standing
728 from the state agency with jurisdiction over corporations in such state;
729 and (D) if the applicant currently provides nursing facility management

730 services in another state, a certificate of good standing from the licensing
731 agency with jurisdiction over public health for each state in which such
732 services are provided;

733 (2) A description of the applicant's nursing facility management
734 experience;

735 (3) An affidavit signed by the applicant and any of the persons
736 described in subparagraph (B) of subdivision (1) of this subsection
737 disclosing any matter in which the applicant or such person (A) has been
738 convicted of an offense classified as a felony under section 53a-25 or
739 pleaded nolo contendere to a felony charge, or (B) has been held liable
740 or enjoined in a civil action by final judgment, if the felony or civil action
741 involved fraud, embezzlement, fraudulent conversion or
742 misappropriation of property, or (C) is subject to a currently effective
743 injunction or restrictive or remedial order of a court of record at the time
744 of application, or (D) within the past five years has had any state or
745 federal license or permit suspended or revoked as a result of an action
746 brought by a governmental agency or department, arising out of or
747 relating to business activity or health care, including, but not limited to,
748 actions affecting the operation of a nursing facility, residential care
749 home or any facility subject to sections 17b-520 to 17b-535, inclusive, or
750 a similar statute in another state or country; and

751 (4) The location and description of any nursing facility in this state or
752 another state in which the applicant or a beneficial owner of the
753 applicant currently provides management services or has provided such
754 services or is currently or has been the owner, operator or administrator
755 within the past five years and whether any such facility has been subject
756 to:

757 (A) Three or more civil penalties imposed through final order of the
758 commissioner in accordance with the provisions of sections 19a-524 to
759 19a-528, inclusive, or civil penalties imposed pursuant to the laws or
760 regulations of another state during the two-year period preceding the
761 date on which such application is submitted;

762 (B) Sanctions, other than civil penalties less than or equal to twenty
763 thousand dollars, imposed in any state through final adjudication under
764 the Medicare or Medicaid program pursuant to Title XVIII or XIX of the
765 federal Social Security Act, 42 USC 301, as amended from time to time;
766 or

767 (C) Termination or nonrenewal of a Medicare or Medicaid provider
768 agreement.

769 (d) In addition to the information provided pursuant to subsection (c)
770 of this section, the department may reasonably request to review the
771 applicant's audited and certified financial statements, which shall
772 remain the property of the applicant when used for either initial or
773 renewal certification under this section.

774 (e) Each application for a certificate to provide nursing facility
775 management services shall be accompanied by an application fee of
776 three hundred dollars. The certificate shall list each location at which
777 nursing facility management services may be provided by the holder of
778 the certificate. The nursing facility management services certificate
779 holder shall request the approval of the Department of Public Health to
780 provide nursing facility management services not later than thirty days
781 in advance of providing services to a nursing facility not listed on its
782 certificate. The department may grant said approval subject to
783 conditions or deny such approval based upon the compliance with state
784 and federal regulatory requirements by the nursing facilities managed
785 by the holder of the certificate.

786 (f) The department shall base its decision on whether to issue or
787 renew a certificate on the information presented and otherwise available
788 to the department and on the compliance status of the managed
789 [entities] facilities. The department may deny certification to any
790 applicant for the provision of nursing facility management services (1)
791 [at any specific facility or facilities where there has been a substantial
792 failure to comply with the Public Health Code, or (2)] if the applicant
793 fails to provide the information required under [subdivision (1) of]

794 subsection (c) of this section, or (2) if the department determines that the
795 applicant or a beneficial owner of the applicant has an unacceptable
796 history of past and current compliance with state licensure
797 requirements, applicable federal requirements and state regulatory
798 requirements for each licensed health care facility owned, operated or
799 managed by the applicant or a beneficial owner of the applicant in the
800 United States or any territory of the United States during the five years
801 preceding the date on which such application is submitted, as evidenced
802 by:

803 (A) Any such licensed health care facility being subject to any adverse
804 action described in subdivision (4) of subsection (c) of this section;

805 (B) Any such licensed health care facility having continuing
806 violations or a pattern of violations of state licensure standards or
807 federal certification standards; or

808 (C) Criminal conviction of, or a guilty plea by, an applicant or
809 beneficial owner of an applicant on or to a charge of fraud, patient or
810 resident abuse or neglect or a crime of violence or moral turpitude.

811 (g) Renewal applications shall be made biennially after (1)
812 submission of the information required by subsection (c) of this section
813 and any other information required by the department, [pursuant to
814 subsection (d) of this section,] and (2) submission of evidence
815 satisfactory to the department that any nursing facility at which the
816 applicant provides nursing facility management services has been and
817 currently is in substantial compliance with federal regulatory
818 requirements, the provisions of this chapter, the Public Health Code and
819 licensing regulations, and (3) payment of a three-hundred-dollar fee.

820 (h) In any case in which the Commissioner of Public Health finds that
821 there has been a substantial failure by one or more managed facilities to
822 comply with state licensure requirements, applicable federal
823 requirements and state regulatory requirements or a substantial failure
824 by a nursing facility management services certificate holder managing
825 such facilities to comply with the requirements for such certificate

826 holder established under this section, the commissioner may initiate and
827 impose disciplinary action against a nursing facility management
828 services certificate holder pursuant to section 19a-494. If three or more
829 facilities managed by a nursing facility management services certificate
830 holder are subject to civil penalties imposed through final order of the
831 commissioner in accordance with the provisions of sections 19a-524 to
832 19a-528, inclusive, during a twelve-month period, the commissioner
833 may impose a civil penalty on the nursing facility management services
834 certificate holder of not more than twenty thousand dollars. The
835 procedure for imposition of said penalty shall be in accordance with
836 subsection (b) of section 19a-494.

837 (i) The department may limit or restrict the provision of management
838 services by any nursing facility management services certificate holder
839 against whom disciplinary action has been initiated under subsection
840 (h) of this section.

841 (j) The department, in implementing the provisions of this section,
842 may conduct any inquiry or investigation, in accordance with the
843 provisions of section 19a-498, regarding an applicant or certificate
844 holder.

845 (k) In any case in which the commissioner finds that there has been a
846 substantial failure to comply with the requirements established under
847 this chapter, or regulations adopted thereunder, the commissioner may
848 require the nursing facility licensee and the nursing facility
849 management service certificate holder to jointly submit a plan of
850 correction as described in section 19a-496, as amended by this act. A
851 plan of correction accepted by the department shall constitute an order
852 of the department. Violation of such order may be the subject of
853 disciplinary action against a nursing facility management services
854 certificate holder pursuant to section 19a-494.

855 (l) Any person or entity providing nursing facility management
856 services without the certificate required under this section shall be
857 subject to a civil penalty of not more than one thousand dollars for each

858 day that the services are provided without such certificate."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-521b
Sec. 2	<i>July 1, 2024</i>	19a-533
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	17b-352(a) and (b)
Sec. 5	<i>from passage</i>	17b-357
Sec. 6	<i>from passage</i>	19a-496(b)
Sec. 7	<i>from passage</i>	19a-700
Sec. 8	<i>October 1, 2024</i>	19a-694
Sec. 9	<i>October 1, 2024</i>	19a-564(e)
Sec. 10	<i>from passage</i>	17b-99a
Sec. 11	<i>from passage</i>	19a-543
Sec. 12	<i>from passage</i>	19a-547
Sec. 13	<i>from passage</i>	19a-561