



ACTS AFFECTING SENIORS



2015-R-0150 (Revised)

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NOTICE TO READERS

This report provides highlights of new laws (Public Acts and Special Acts) affecting seniors enacted during the 2015 regular and special legislative sessions. In each summary we indicate the Public Act (PA) or Special Act (SA) number and the date the legislation takes effect.

Not all provisions of the acts are included here. Complete summaries of all 2015 Public Acts will be available on OLR's webpage:
www.cga.ct.gov/olr/OLRPASums.asp.

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's Office, or the General Assembly's website: <http://www.cga.ct.gov>.

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ELDER ABUSE

Civil Cause of Action

[PA 15-236](#) gives abused, neglected, exploited, or abandoned elderly people a civil cause of action against their perpetrators and allows them to recover actual and punitive damages, costs, and reasonable attorney's fees. It allows the following people to bring a suit:

1. the elderly person or his or her guardian or conservator;
2. another person or organization acting on the elderly person's behalf with consent from the elderly person or his or her guardian or conservator; or
3. the personal representative of a deceased elderly victim's estate.

If the action involves elderly exploitation, the act allows the court to prohibit the defendant from transferring, depleting, or otherwise alienating or diminishing any funds, assets, or property.

Additionally, the act prohibits bringing an action for neglect or abandonment against someone who does not have a contractual obligation to provide care to an elderly person unless the person's neglect was willful or criminal.

EFFECTIVE DATE: October 1, 2015

Commission on Aging Study

[PA 15-236](#) requires the Commission on Aging to study and report to the Aging Committee by January 1, 2016 on

best practices for reporting and identifying abuse, neglect, exploitation, and abandonment of elderly people, including:

1. models nationwide for reporting;
2. standardized definitions, measurements, and uniform reporting mechanisms for accurate data collection in Connecticut; and
3. methods to promote and coordinate communication about reporting among state and local government entities.

EFFECTIVE DATE: October 1, 2015

DSS Investigations

[PA 15-233](#) makes changes regarding information access and disclosure during and after Department of Social Services (DSS) elder abuse investigations by:

1. broadening DSS's ability to issue subpoenas when investigating allegations of elder abuse, neglect, exploitation, or abandonment;
2. narrowing the circumstances under which DSS may disclose the name of the person making the report;
3. establishing when DSS may disclose an elderly person's file, both with and without authorization from the elderly person or his or her legal representative; and
4. allowing an elderly person or his or her legal representative to

access DSS records pertaining to the elderly person, with certain exceptions.

EFFECTIVE DATE: July 1, 2015

Direct Care Workers Training

[PA 15-236](#) expands the training that institutions, organizations, agencies, and facilities employing individuals to care for someone age 60 or older must provide their employees. The act requires this training to cover detecting elderly exploitation and abandonment. Previously, the training only covered abuse and neglect and informing employees of their reporting responsibilities.

EFFECTIVE DATE: October 1, 2015

Financial Institutions and Agents Training

[PA 15-236](#) requires the Commission on Aging to create a forum and clearing house for best practices and free training resources to help financial institutions and agents detect potential elderly fraud, exploitation, and financial abuse. It must establish a single portal for resources and material by January 1, 2016.

Additionally, the act requires financial agents to participate in mandatory training to detect potential elderly fraud, exploitation, and financial abuse, including using the commission's portal. Agents must complete the training within the later of six months after the commission creates the portal or beginning employment.

EFFECTIVE DATE: October 1, 2015

Inheritances and Estates

[PA 15-236](#) prohibits someone convicted of 1st or 2nd degree larceny or 1st degree abuse of an elderly, blind, or disabled person or person with intellectual disabilities from inheriting, receiving insurance benefits, or receiving certain property from a deceased victim. It makes changes to the disposition of certain types of jointly owned personal property when one owner is convicted of one of these or certain other crimes against another owner. These provisions also apply if a court finds that someone would have been convicted of one of these crimes.

EFFECTIVE DATE: October 1, 2015

Mandated Reporters

The law requires certain professionals (mandated reporters) to notify DSS when they reasonably suspect an elderly person (1) has been abused, neglected, abandoned, or exploited or (2) needs protective services.

[PA 15-236](#) and [PA 15-242](#) add as mandated reporters the following licensed or certified emergency medical service providers: paramedics; emergency medical responders, technicians, advanced technicians, and technician-paramedics; service instructors; and any of these professionals who are members of a municipal fire department.

EFFECTIVE DATE: October 1, 2015

Notice of Abuse Reports Involving Long-Term Care Facility Residents

[PA 15-150](#) requires DSS, after receiving a report from a mandated elder abuse reporter regarding a long-term care facility resident, to notify the resident's (1) guardian or conservator, if any; (2) legally liable relative; or (3) other responsible party, unless that individual is the suspected perpetrator. The department must provide the notice as soon as possible, but no later than 24 hours after receiving the report.

EFFECTIVE DATE: October 1, 2015

Nursing Home Transfers

Existing law allows DSS to take necessary actions to ensure an elderly person's health, safety, and welfare. [PA 15-233](#) removes the department's explicit right to authorize an elderly person's transfer from a nursing home. By law, the public health commissioner may transfer a nursing home resident if she determines there is imminent danger to the resident's health, safety, or welfare.

EFFECTIVE DATE: July 1, 2015

Protective Services

[PA 15-233](#) allows DSS to petition the probate court for an order to enter an elderly person's premises to conduct an assessment if the (1) department has reasonable cause to believe the elderly person may need protective services and (2) elderly person or another person has refused DSS access to the

premises. The court may grant the petition if it finds certain conditions are met.

EFFECTIVE DATE: July 1, 2015

Statutory Definition of Elder Neglect

[PA 15-233](#) and [PA 15-236](#) change the statutory definition of neglect for purposes of DSS investigations and services. Under prior law, neglect referred to an elderly person (1) living alone and not able to provide for himself or herself the necessary services to maintain physical and mental health or (2) not receiving these services from a responsible caretaker.

The act broadens the first definition by also including elderly people who do not live alone. It also specifies in the second definition that neglect is the caretaker's failure to provide or arrange to provide these services to an elderly person.

EFFECTIVE DATE: October 1, 2015

HOSPITALS

Dementia Training Requirement

[PA 15-129](#) requires hospitals to train direct care staff in the symptoms of dementia as part of their regular staff training.

EFFECTIVE DATE: July 1, 2015

Patient-Designated Caregivers

[PA 15-32](#) requires a hospital, when discharging a patient to his or her home, to:

1. allow the patient to designate a caregiver at or before the time the patient receives a written copy of his or her discharge plan;
2. document the designated caregiver in the patient's discharge plan;
3. attempt to notify the designated caregiver of the patient's discharge; and
4. instruct the caregiver on post-discharge tasks with which he or she will assist the patient at home.

The act does not create a private right of action against a hospital or its employees, contractors, or consultants. It prohibits these entities and people from being held liable for services a caregiver provides or fails to provide the patient in his or her home.

EFFECTIVE DATE: October 1, 2015

INSURANCE

Group Annuity Contracts

[PA 15-167](#) exempts from creditors' claims, interests of participants or beneficiaries in certain allocated or unallocated group annuity contracts. Employers may enter into group annuity contracts to fund employee retirement benefits or otherwise decrease the risk associated with managing a retirement plan.

To qualify for the exemption, a group annuity contract must be issued

to an employer or pension plan to provide employees or retirees with defined retirement benefits and meet certain criteria.

By law, creditors cannot claim interests in and payments from certain accounts, including certain retirement accounts.

EFFECTIVE DATE: October 1, 2015

Medicaid Over-The-Counter Drug Coverage Expansion

[PA 15-165](#) expands the types of over-the-counter drugs and products covered under Medicaid to include those the DSS commissioner determines to be appropriate based on their clinical efficacy, safety, and cost effectiveness.

The law generally bans DSS from paying for over-the-counter drugs, except for (1) smoking cessation drugs, (2) insulin or insulin syringes, (3) certain nutrition supplements, (4) those provided through the Connecticut AIDS Drug Assistance Program, and (5) drugs covered as an essential health benefit under the federal Affordable Care Act.

By law, DSS may require prior authorization for any covered over-the-counter drugs.

EFFECTIVE DATE: July 1, 2015

Medicare Part D Prescription Drug Copayments

[PA 15-5, June Special Session \(JSS\)](#) eliminates DSS's obligation to pay any Medicare Part D prescription co-

payments for those who are eligible for full Medicaid assistance and have Medicare Part D coverage (e.g., dual-eligibles). Prior law required DSS to pay any co-payments for dual-eligibles that exceeded \$15 per month.

EFFECTIVE DATE: July 1, 2015

Requirements for Long-Term Care Facilities Completing Residents' Medicare or Medicaid Applications

[PA 15-50](#) entitles residents of nursing homes, RCHs, and chronic disease hospitals, or their designated representatives, to receive a copy of any Medicare or Medicaid application a facility completes on their behalf. It adds this right to the state's nursing home patients' bill of rights.

EFFECTIVE DATE: July 1, 2015

LONG-TERM CARE

Advanced Notice of Facility Inspections and Investigations

The law prohibits regional long-term care ombudsmen and Department of Public Health and DSS employees from providing nursing or residential care homes (1) advanced notice of an investigation or inspection or (2) information about a complaint filed by a mandated reporter of elder abuse unless they are specifically required to do so by state or federal regulations.

[PA 15-242](#) extends the prohibition to cover all licensed health care institutions and specifies that it does

not apply to inspections related to an institution's initial licensure.

EFFECTIVE DATE: October 1, 2015

Connecticut Home Care Program for Elders (CHCPE)

[PA 15-5, JSS](#) makes several changes affecting the state-funded portion of CHCPE, which provides home-and community-based services to frail seniors as an alternative to nursing home care.

The act limits program eligibility in FYs 16 and 17 to only those seniors who (1) require a nursing home level of care or (2) live in affordable housing under the state's assisted living demonstration projects.

It also increases, from 7% of the cost of care to 9%, the cost sharing required from state-funded program participants who do not live in affordable housing under the state's assisted living demonstration projects. By law, such participants whose income exceeds 200% of the FPL must also pay an amount of applied income DSS determines.

Additionally, the act specifies that the minimum community spouse protected amount (CSPA) used to establish the state-funded program's asset limits is the federal minimum (\$23,884 in 2015). The CSPA is the amount of assets the spouse of a Medicaid nursing home applicant may keep when his or her spouse becomes eligible for Medicaid.

EFFECTIVE DATE: July 1, 2015

Continuing Care Retirement Communities (CCRCs)

[PA 15-115](#) makes several changes affecting CCRCs. Among other things, it:

1. establishes rights and entitlements for residents;
2. requires providers to give residents advance notice of major construction, ownership changes, and increases in monthly service fees;
3. allows residents to form resident councils;
4. decreases the amount of funds providers must keep in escrow and, in certain cases, changes how providers compute required reserve amounts for the escrow account;
5. makes changes to the information providers must (a) file with DSS and (b) include in the disclosure statement given to residents upon admission; and
6. extends existing penalties for providers that violate CCRC laws to those who violate the act's provisions.

EFFECTIVE DATE: October 1, 2015

Homemaker-Companion Services Registry

[PA 15-230](#) reduces the amount of time, from seven calendar days to four, in which a homemaker-companion service registry must provide certain written notice for consumers to sign.

By law, the written notice must (1) be provided within the timeframe after the registry supplies, refers, or places an individual with the consumer and (2) specify the registry's legal liabilities to the companion or homemaker.

EFFECTIVE DATE: October 1, 2015

Long-Term Care Facility Closure Rates

[PA 15-5, JSS](#) allows the DSS commissioner, at his discretion, to revise the rate of a nursing home, RCH, or intermediate care facility for intellectual disabilities that is closing down. An interim rate during the facility's closure must be based on (1) a review of the facility's costs, (2) the expected duration of the close-down period, (3) the anticipated impact on Medicaid costs, (4) available appropriations, and (5) the relationship of the rate the facility requests to the average Medicaid rate for a close-down period.

EFFECTIVE DATE: July 1, 2015

Long-Term Care Ombudsman Pilot Program

By law, the Office of the State Long-Term Care Ombudsman must implement and administer a pilot program that provides services to home- and community-based care recipients in Hartford County. [PA 15-5, JSS](#) limits the program to within available appropriations.

EFFECTIVE DATE: July 1, 2015

Residential Care Home (RCH) Rates

[PA 15-5, JSS](#) caps at FY 15 levels the Medicaid rates DSS pays RCHs in FYs 16 and 17, except that the commissioner may provide pro rata fair rent increases under limited circumstances. (Fair rent is the amount calculated in a facility's rate determination that accounts for their costs for property and other large assets.)

Starting with FY 16, the act requires DSS to provide fair rent reimbursement to RCHs, at the greater of \$3.10 per day or the allowable accumulated fair rent reimbursement associated with real property additions and land as calculated on a per day basis.

EFFECTIVE DATE: July 1, 2015

Safeguarding RCH Residents' Personal Funds

[PA 15-130](#) extends to RCHs statutory requirements for nursing homes regarding the management of residents' personal funds.

The act establishes notification and account management procedures, such as requiring RCHs to (1) provide residents a written statement prior to admission and (2) prevent comingling of the resident's funds with those of the RCH.

The act also extends the law's penalties for mismanaging a nursing home resident's personal funds to mismanaging a RCH resident's personal

funds. Under the act, violators may be guilty of a class A misdemeanor, punishable by up to one year imprisonment, a fine up to \$2,000, or both.

EFFECTIVE DATE: July 1, 2015

State Aging and Disability Resource Center

[PA 15-19](#) renames the Community Choices program the Aging Disability Resource Center (ADRC) and requires the Department on Aging to administer it as part of the CHOICES program.

Community Choices (1) provides seniors, caregivers, and people with disabilities with a single, coordinated information and access program for long-term support and institutional services and (2) is the state's designated ADRC program pursuant to the federal Older Americans Act.

CHOICES provides seniors and Medicare beneficiaries with, among other things, health insurance information and counseling.

EFFECTIVE DATE: July 1, 2015

State Supplement Program (SSP) Rates

[PA 15-5, JSS](#) freezes SSP payment standards for the next two fiscal years. Under prior law, the DSS commissioner was required to increase the amount of unearned income he disregarded when determining program eligibility and benefits.

SSP provides cash assistance to individuals who are (1) aged, blind, or living with a disability and (2) eligible for federal Supplemental Security Income benefits or who would be, but for excess income.

EFFECTIVE DATE: July 1, 2015

MISCELLANEOUS

Domestic Workers Under Commission on Human Rights and Opportunities (CHRO) Jurisdiction

[PA 15-249](#) brings domestic workers who work for employers with at least three employees under the employment-related anti-discrimination laws administered by CHRO. Among other things, this provides them with (1) protections against employment-related discrimination based on their race, color, religion, age, sex, gender identity, marital status, national origin, ancestry, and mental or physical disability; (2) a right to a reasonable leave of absence for a disability resulting from a pregnancy and other pregnancy-related protections; and (3) protections against sexual harassment. By law, employees covered under the CHRO statutes can enforce their rights by filing a complaint with the commission.

EFFECTIVE DATE: January 1, 2016

Security Freezes on Consumer Credit Reports

[PA 15-53](#) prohibits credit reporting agencies from charging seniors ages 62

and older the fees that would otherwise apply for (1) placing a security freeze on a person's credit report, removing the freeze, or temporarily lifting one (up to \$10) or (2) temporarily lifting the freeze for a specific party (up to \$12).

The act also exempts from these fees other specified individuals, such as identity theft victims or people who have court-appointed conservators, among others.

EFFECTIVE DATE: Upon passage

State Income Tax Exemption for Military Retirement Income

[PA 15-244](#) fully exempts federally taxable military retirement pay from the state income tax. Prior law exempted 50% of this retirement pay.

The exemption applies to federal retirement pay for retired members of the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, and Army and Air National Guard.

EFFECTIVE DATE: Upon passage and applicable to tax years beginning on or after January 1, 2015.

Study of Alternative Funding Sources for Elderly Nutrition Services

[PA 15-40](#) requires the aging and social services departments, together with certain nutrition service stakeholders, to study alternative funding sources for elderly nutrition services programs. They must report

their findings and recommendations to the Aging Committee by July 1, 2016.

EFFECTIVE DATE: July 1, 2015

Uniform Partition of Heirs' Property Act and "Fee Tails"

[PA 15-167](#) creates procedures governing certain actions to partition real property owned by multiple parties as tenants in common, a form of ownership where more than one person owns the property and each has an interest that does not terminate on his or her death and can be passed on to his or her heirs. These procedures apply to actions filed on or after October 1, 2015.

The act also abolishes restrictions on land conveyances which exist when a person obtains the land through a "fee tail" provision of a will or deed. It allows the person holding land in "fee tail" to convey ownership when and to whom he or she chooses, instead of requiring that ownership pass upon his or her death to his or her descendants, who may then convey it as they choose. A person holds land in "fee tail" when the deed or will which conveyed the land specifically states that the conveyance is to a person "and the heirs of his or her body."

EFFECTIVE DATE: October 1, 2015

Uniform Power of Attorney Act

[PA 15-240](#) enacts the Uniform Power of Attorney Act and repeals prior law governing powers of attorney (POA).

POAs are documents used by a person (the principal) to designate someone (the agent) to make decisions and act on the principal's behalf. POAs generally name the agent and the powers granted to him or her.

Compared to prior law, the act, among other things:

1. more extensively covers an agent's authority, duties, and liabilities;
2. allows a probate court to continue, limit, suspend, or terminate a POA when appointing a conservator; and
3. authorizes certain people to petition the probate court to review a POA or an agent's conduct.

EFFECTIVE DATE: July 1, 2016

NURSING HOMES

Bed Moratorium

[PA 15-5, JSS](#) indefinitely extends DSS's moratorium on accepting or approving requests for a certificate of need to add new nursing home beds.

It also eliminates, modifies, and adds exemptions to the moratorium. For example, the act eliminates exemptions from the moratorium for:

1. beds used solely for AIDS or traumatic brain injury patients (but it instead exempts beds for

- patients requiring neurological rehabilitation);
- 2. Medicaid-certified beds relocated from a licensed nursing facility to a small house nursing home (though it retains the exemption for relocating beds from one facility to another);
- 3. up to 20 beds from certain facilities that do not participate in Medicaid or Medicare;
- 4. up to 20 beds from certain freestanding facilities dedicated to providing hospice care services for terminally ill persons; and
- 5. up to 60 new or existing Medicaid certified beds relocated from a licensed nursing facility in a city with a 2004 estimated population of 125,000 to another location within that city.

EFFECTIVE DATE: July 1, 2015

Medicaid Reimbursement Rates

[PA 15-5, JSS](#) makes several changes affecting Medicaid reimbursement rates for nursing homes. Among other things, it:

- 1. caps at FY 15 levels, for the next two fiscal years, Medicaid reimbursement rates to nursing homes, with certain exceptions for facilities that would have been issued a lower rate due to an agreement with DSS;

- 2. extends for the next two fiscal years, the commissioner’s authority, within available appropriations, to provide pro rata fair rent increases; and
- 3. allows the commissioner to implement an acuity-based method for reimbursing Medicaid nursing home services.

EFFECTIVE DATE: July 1, 2015, except that the provision on acuity-based reimbursements takes effect upon passage

Resident Community Transition

Under [PA 15-5, JSS](#), if a nursing home has reason to know that a resident is likely to become financially eligible for Medicaid benefits within 180 days, it must notify the resident or the resident’s representative and DSS. DSS may (1) assess the resident to determine if he or she prefers and is able to live appropriately at home or in another community-based setting and (2) develop a care plan and help the resident transition to the community.

EFFECTIVE DATE: July 1, 2015

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