



House Bill No. 6731

Public Act No. 23-122

***AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S
RECOMMENDATIONS REGARDING CHANGE IN OWNERSHIP OF
HEALTH CARE FACILITIES.***

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

Section 1. Section 19a-493 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Upon receipt of an application for an initial license, the Department of Public Health, subject to the provisions of section 19a-491a, shall issue such license if, upon conducting a scheduled inspection and investigation, the department finds that the applicant and facilities meet the requirements established under section 19a-495, provided a license shall be issued to or renewed for an institution, as defined in section 19a-490, only if such institution is not otherwise required to be licensed by the state. If an institution, as defined in subsections (b), (d), (e) and (f) of section 19a-490, applies for license renewal and has been certified as a provider of services by the United States Department of Health and Human Services under Medicare or Medicaid programs within the immediately preceding twelve-month period, or if an institution, as defined in subsection (b) of section 19a-490, is currently certified, the commissioner or the commissioner's designee may waive on renewal the inspection and investigation of such facility required by

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this section and, in such event, any such facility shall be deemed to have satisfied the requirements of section 19a-495 for the purposes of licensure. Such license shall be valid for two years or a fraction thereof and shall terminate on March thirty-first, June thirtieth, September thirtieth or December thirty-first of the appropriate year. A license issued pursuant to this chapter, unless sooner suspended or revoked, shall be renewable biennially (1) after an unscheduled inspection is conducted by the department, and (2) upon the filing by the licensee, and approval by the department, of a report upon such date and containing such information in such form as the department prescribes and satisfactory evidence of continuing compliance with requirements established under section 19a-495. In the case of an institution, as defined in subsection (d) of section 19a-490, that is also certified as a provider under the Medicare program, the license shall be issued for a period not to exceed three years, to run concurrently with the certification period. In the case of an institution, as defined in subsection (m) of section 19a-490, that is applying for renewal, the license shall be issued pursuant to section 19a-491. Except in the case of a multicare institution, each license shall be issued only for the premises and persons named in the application. Such license shall not be transferable or assignable. Licenses shall be posted in a conspicuous place in the licensed premises.

(b) [(1)] A nursing home license may be renewed biennially after [(A)] (1) an unscheduled inspection conducted by the department, [(B)] (2) submission of the information required by section 19a-491a, and [(C)] (3) submission of evidence satisfactory to the department that the nursing home is in compliance with the provisions of this chapter, the regulations of Connecticut state agencies and licensing regulations.

(c) (1) (A) For the purposes of this subsection, (i) "a person related by blood or marriage" means a parent, spouse, child, brother, sister, aunt, uncle, niece or nephew, (ii) "business entity" means a corporation,

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association, trust, estate, partnership, limited partnership, limited liability partnership, limited liability company, sole proprietorship, joint stock company, nonstock corporation or other legal entity, (iii) "institution" has the same meaning as provided in section 19a-490, and (iv) "organizational chart" means a graphical representation of an organization, including, but not limited to, the relationships between such organization's ownership interests.

(B) For the purposes of this subsection, (i) a change in the legal form of the licensee, including, but not limited to, changes from a corporation to a limited liability company, a partnership to a limited liability partnership, a sole proprietorship to a corporation and similar changes, shall not be considered a change in ownership if the beneficial ownership remains unchanged and the owner provides such information regarding the change to the department as may be required by the commissioner to properly identify the current status of ownership and beneficial ownership of the facility or institution, (ii) a public offering of the stock of any corporation that owns, conducts, operates or maintains any facility or institution shall not be considered a change in ownership or beneficial ownership of such facility or institution if the licensee and the officers and directors of such corporation remain unchanged, such public offering cannot result in an individual or entity owning ten per cent or more of the stock of such corporation, and the owner provides such information to the department as may be required by the department in order to properly identify the current status of ownership and beneficial ownership of the facility or institution, and (iii) a change of ownership of, or to, a business entity recognized as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, that is licensed as a hospital pursuant to this chapter resulting in the transfer of ownership which is exempt from review required under subsection (a) of section 19a-486a shall not be considered a change in

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ownership provided the owner provides such information regarding the change to the department as may be required by the commissioner to properly identify the current status of ownership.

(C) For the purposes of this subsection, "serious risk to the life, safety or quality of care of patients or residents" includes, but is not limited to, any deficiency in state licensure or federal certification requirements, including the provisions of 42 CFR 488.400 et seq., resulting in:

(i) An action by a state or federal agency to ban, curtail or temporarily suspend admissions to a facility or to suspend or revoke a facility's license;

(ii) A decertification, termination or exclusion from Medicaid or Medicare participation, including denial of payment for new admissions resulting solely due to the provider's failure to correct deficiencies or noncompliance with regulatory requirements, imposed by the Department of Public Health or by the Centers for Medicare and Medicaid Services, as a result of noncompliance with Medicaid or Medicare conditions of participation;

(iii) A citation of any deficiency that constitutes a pattern or widespread scope of actual harm or immediate jeopardy, or any deficiency causing widespread actual harm, as described in 42 CFR 488;

(iv) A determination that the provider is a "poor performer" as defined by the Centers for Medicare and Medicaid Services on the basis of a finding of substandard quality of care or immediate jeopardy, as described in 42 CFR 488, on the current survey and on a survey during one of the two preceding years. For the purposes of this subparagraph, "substandard quality of care" means the failure to meet one or more requirements of 42 CFR 483.13, 42 CFR 483.15 or 42 CFR 483.25, that constitute either immediate jeopardy to resident health or safety, a pattern of or widespread actual harm that is not immediate jeopardy or

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a widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm; or

(v) A determination that the facility has failed to correct, on a second revisit, deficiencies that have been cited during a prior survey, and that has resulted in a denial by the Centers for Medicare and Medicaid Services of payment for new admissions or a requirement by the department to curtail admission.

(2) Any change in the ownership or beneficial ownership of a facility or institution [, as defined in section 19a-490,] owned by an individual [, partnership or association or the change in ownership or beneficial ownership of ten per cent or more of the stock of a corporation which] or a business entity that owns, conducts, operates or maintains such facility or institution, including a change in ownership or beneficial ownership resulting in a transfer to a person related by blood or marriage to an owner or a beneficial owner, shall be subject to prior approval of the department, [after a scheduled inspection of such facility or institution is conducted by the department,] provided such approval shall be conditioned upon a showing by such facility or institution to the commissioner that it has complied with all requirements of this chapter, the regulations relating to licensure and all applicable requirements of the regulations of Connecticut state agencies [. Any such change in ownership or beneficial ownership resulting in a transfer to a person related by blood or marriage to such an owner or beneficial owner shall not be subject to prior approval of the department unless: (A) Ownership or beneficial ownership of ten per cent or more of the stock of a corporation, limited liability company, partnership or association which owns, conducts, operates or maintains more than one facility or institution is transferred; (B) ownership or beneficial ownership is transferred in more than one facility or institution; or (C) the facility or institution is the subject of a pending complaint, investigation or licensure action. If the facility or institution is not in compliance, the

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commissioner may require the new owner to sign a consent order providing reasonable assurances that the violations shall be corrected within a specified period of time. Notice of any such proposed change of ownership shall be given to the department at least one hundred twenty days prior to the effective date of such proposed change. For the purposes of this subdivision, "a person related by blood or marriage" means a parent, spouse, child, brother, sister, aunt, uncle, niece or nephew. For the purposes of this subdivision, a change in the legal form of the ownership entity, including, but not limited to, changes from a corporation to a limited liability company, a partnership to a limited liability partnership, a sole proprietorship to a corporation and similar changes, shall not be considered a change of ownership if the beneficial ownership remains unchanged and the owner provides such information regarding the change to the department as may be required by the department in order to properly identify the current status of ownership and beneficial ownership of the facility or institution. For the purposes of this subdivision, a public offering of the stock of any corporation that owns, conducts, operates or maintains any such facility or institution shall not be considered a change in ownership or beneficial ownership of such facility or institution if the licensee and the officers and directors of such corporation remain unchanged, such public offering cannot result in an individual or entity owning ten per cent or more of the stock of such corporation, and the owner provides such information to the department as may be required by the department in order to properly identify the current status of ownership and beneficial ownership of the facility or institution.] and the change of ownership or beneficial ownership meets the requirements of subdivision (5) of subsection (c) of this section.

(3) Not later than one hundred twenty days before the proposed date of a change in ownership or beneficial ownership of a facility or institution, the proposed new owner, or in the case of a change in beneficial ownership, the current owner, of such facility or institution

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shall submit an application for approval to the department. Such application shall be in a form and manner prescribed by the commissioner and shall include, but need not be limited to, the following:

(A) A cover letter identifying the facility or institution subject to such change by name, address, county and number and type of beds licensed by the department;

(B) A description of the proposed transaction resulting in such change, including the name of each current owner of the facility or institution;

(C) The name of each proposed new owner or beneficial owner;

(D) The name of each owner of any nonpublicly traded parent corporation of each proposed new owner and beneficial owner;

(E) If applicable, (i) the proposed new owner's organizational chart, (ii) the proposed new owner's parent business entity's organizational chart, (iii) the organizational chart of each wholly-owned subsidiary of such proposed new owner, and (iv) the current owner's organizational chart showing the changes in beneficial ownership;

(F) A copy of the agreement of sale or other transfer of ownership interests and, if applicable, a copy of any lease or management agreements that will be in effect after the transaction;

(G) The name and address of any licensed health care facility owned, operated or managed by each proposed new owner and beneficial owner in the United States or any territory of the United States during the five years preceding the date on which such application is submitted, and information relating to any such facility, including:

(i) Disclosure of any direct or indirect interests, including such

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interests in intermediate entities and parent, management and property companies and other related entities arising from such ownership, operation or management;

(ii) Disclosure of whether each such facility or institution is the subject of a pending complaint, investigation or licensure action by a governmental authority;

(iii) Disclosure of whether each such facility or institution has been subject to:

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

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

(III) Termination or nonrenewal of a Medicare or Medicaid provider agreement;

(IV) Any state licensing or federal certification deficiency during the five-year period prior to the submission of the application that presented a serious risk to the life, safety or quality of care of the facility's patients or residents; and

(V) Any violation of any state licensing or federal certification standard in connection with an inappropriate discharge or denial of admission; and

(H) Disclosure of whether each proposed new owner has ever been

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convicted or pleaded guilty to a charge of fraud, patient or resident abuse or neglect or a crime of violence or moral turpitude.

(4) After receiving an application for change in ownership, the commissioner may schedule an inspection of such facility or institution to determine if the facility or institution has complied with the requirements of this chapter and the regulations of Connecticut state agencies relating to licensure of such facility or institution.

(5) When evaluating an application for a change in ownership, the commissioner shall consider whether each proposed new owner and beneficial owner demonstrates character and competence, quality of care and whether an acceptable history of past and current compliance with state licensure requirements, applicable federal requirements and state regulatory requirements exists for each licensed health care facility owned, operated or managed by each proposed new owner and beneficial owner in the United States or any territory of the United States during the five years preceding the date on which such application is submitted. The commissioner may deny an application for change in ownership if such qualities are not demonstrated, as evidenced by:

(A) Any such licensed health care facility being subject to any adverse action described in subparagraph (G)(iii) of subdivision (3) of this subsection;

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

(C) An applicant's criminal conviction of, or guilty plea to, any of the crimes described in subparagraph (H) of subdivision (3) of this subsection.

(6) Notwithstanding the provisions of subdivision (5) of this subsection, the commissioner may stay the determination of an

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application if the commissioner determines that there is a pending investigation of actions of the applicant at any facility operated or managed by the applicant that, if substantiated, would constitute a threat to the life, safety or quality of care of the patients or residents until such time as there is a final determination of the allegations underlying the investigation.

(7) If the commissioner denies an application for change in ownership, a person related by blood or marriage to the applicant may not apply to acquire ownership interest in the facility or institution.

(8) In the event of a change in ownership or beneficial ownership resulting in a transfer to a person related by blood or marriage to an owner or beneficial owner, the commissioner may waive the submission of information required pursuant to the provisions of subparagraph (G) of subdivision (3) of this subsection. In the event of a change in ownership or beneficial ownership of five per cent or less of the ownership of a business entity that is a licensed institution, the commissioner may waive the submission of some or all of the information required pursuant to the provisions of subdivision (3) of this subsection or the determination required pursuant to subdivision (5) of this subsection. The commissioner shall develop an application process through which a person may request a waiver described in this subdivision and criteria to be used by the commissioner when evaluating such a request. The commissioner shall consult with representatives of the long-term care industry when developing such application process and criteria.

(9) The provisions of this subsection shall not apply the event of a change of ownership or beneficial ownership of ten per cent or less of the ownership of a licensed outpatient surgical facility, as defined in section 19a-493b, resulting in a transfer to a physician licensed under chapter 370 if such facility provides information, in a form and manner prescribed by the commissioner, to update such facility's licensing

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information.

[(c)] (d) (1) A multicare institution may, under the terms of its existing license, provide behavioral health services or substance use disorder treatment services on the premises of more than one facility, at a satellite unit or at another location outside of its facilities or satellite units that is acceptable to the patient receiving services and is consistent with the patient's assessment and treatment plan. Such behavioral health services or substance use disorder treatment services may include methadone delivery and related substance use treatment services to persons in a nursing home facility pursuant to the provisions of section 19a-495c or in a mobile narcotic treatment program, as defined in 21 CFR 1300.

(2) Any multicare institution that intends to offer services at a satellite unit or other location outside of its facilities or satellite units shall submit an application for approval to offer services at such location to the Department of Public Health. Such application shall be submitted on a form and in the manner prescribed by the Commissioner of Public Health. Not later than forty-five days after receipt of such application, the commissioner shall notify the multicare institution of the approval or denial of such application. If the satellite unit or other location is approved, that satellite unit or location shall be deemed to be licensed in accordance with this section and shall comply with the applicable requirements of this chapter and regulations adopted under this chapter.

(3) A multicare institution that is a hospital providing outpatient behavioral health services or other health care services shall provide the Department of Public Health with a list of satellite units or locations when completing the initial or renewal licensure application.

(4) The Commissioner of Public Health may adopt regulations, in accordance with the provisions of chapter 54, to carry out the provisions

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of this subsection. The Commissioner of Public Health may implement policies and procedures necessary to administer the provisions of this subsection while in the process of adopting such policies and procedures as regulation, provided the commissioner prints notice of intent to adopt regulations in the Connecticut Law Journal not later than twenty days after the date of implementation. Policies and procedures implemented pursuant to this section shall be valid until the time final regulations are adopted.

Sec. 2. Subsection (a) of section 19a-491a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

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

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

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

(3) Affidavits signed by the owner, any of the persons described in subdivision (1) of this subsection, the administrator, assistant administrator, the medical director, the director of nursing and assistant

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director of nursing disclosing any matter in which such person has been convicted of a felony, as defined in section 53a-25, or has pleaded nolo contendere to a felony charge, or has been held liable or enjoined in a civil action by final judgment, if the felony or civil action involved fraud, embezzlement, fraudulent conversion or misappropriation of property; or is subject to an injunction or restrictive or remedial order of a court of record at the time of application, within the past five years has had any state or federal license or permit suspended or revoked as a result of an action brought by a governmental agency or department, arising out of or relating to health care business activity, including, but not limited to, actions affecting the operation of a nursing home, retirement home, residential care home or any facility subject to sections 17b-520 to 17b-535, inclusive, or a similar statute in another state or country;

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

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

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

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

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operations; and

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

Sec. 3. Subsection (a) of section 19a-528a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) For any application of licensure for the acquisition of a nursing home, any potential nursing home licensee or owner shall submit in writing, a change in ownership application with respect to the facility for which the change in ownership is sought. The application shall be submitted in the form and manner prescribed by the Commissioner of Public Health. The commissioner shall include on the first page of the application the following statement: "NOTICE: The State of Connecticut values the quality of care provided to all nursing home residents. Please know that any nursing home licensee, owner or officer, including, but not limited to, a director, trustee, limited partner, managing partner, general partner or any person having at least a [ten] five per cent ownership interest in the nursing home or the entity that owns the nursing home, and any administrator, assistant administrator, medical director, director of nursing or assistant director of nursing may be subject to civil and criminal liability, as well as administrative sanctions under applicable federal and state law, for the abuse or neglect of a resident of the nursing home perpetrated by an employee of the nursing home."

Approved June 27, 2023