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## OLR Bill Analysis

HB 5781 (as amended by House "A")\*

### **AN ACT CONCERNING A STUDY OF THE NEEDS OF SENIOR CITIZENS.**

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*Requires nursing homes to notify the Long-Term Care ombudsman about an involuntary transfer or discharge on the same day the resident is notified; failure to do so invalidates the transfer*

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*Requires chronic and convalescent nursing homes that receive Medicaid funding to annually report a profit and loss statement from each related party that receives at least \$30,000 of income from the home*

#### § 10 — MEDICAID RATE SETTING GUIDEBOOK FOR NURSING HOMES

*Requires the DSS commissioner to develop and post online a guidebook that explains in plain language the Medicaid nursing home rate setting process*

**§ 11 — TRANSITION PLAN FOR HOMEMAKER-COMPANION AGENCY OVERSIGHT**

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**§ 12 — HOMEMAKER-COMPANION AGENCY REGISTRATION REVOCATION**

*Adds failure to give a consumer written notice that the agency provides nonmedical care to a list of violations for which DCP may revoke, suspend, or refuse to issue or renew a homemaker-companion agency’s registration; requires DCP to revoke a homemaker-companion agency’s registration if the agency is found to have violated any revokable provisions three times in a calendar year*

**§ 13 — HOMEMAKER-COMPANION AGENCY CONTRACTS & SERVICE PLANS**

*Requires homemaker-companion agencies to develop a service plan or contract in consultation with the consumer; the service plan or contract must include (1) a person-centered plan of care, (2) anticipated oversight by the agency of the employee assigned to the consumer, and (3) how often the person who oversees the agency’s employee and the consumer will meet*

**§§ 13 & 14 — HOMEMAKER-COMPANION AGENCY CONSUMER COMPLAINTS**

*Requires DCP to post on its website a guide detailing the process for consumers to file complaints against a homemaker-companion agency; requires agencies to give consumers a printed copy of this guide with their contract or service plan*

**§§ 15-17 — HOMEMAKER-COMPANION AGENCY ADVERTISING AND SCOPE OF SERVICES**

*Requires every homemaker-companion agency to create a brochure and maintain a website detailing the services it provides; allows a homemaker-companion agency to (1) use the word “care” in its business name and advertising and (2) advertise having employees trained to provide services to people with memory difficulties, if certain requirements are met; requires a homemaker-companion agency to give consumers written notice that the agency provides nonmedical care and obtain the consumer’s signature on this notice before providing services*

**SUMMARY:**

This bill addresses nursing home transparency and reporting requirements, expands supports for people with dementia, and implements the recommendations of the Homemaker-Companion Agency Task Force, as described in the section-by-section analysis below.

\*House Amendment “A” replaces the underlying bill which would

have required the Commission on Women, Children, Seniors, Equity and Opportunity executive director to consult with the Aging and Disability Services commissioner to study the needs of senior citizens in the state.

EFFECTIVE DATE: Upon passage, unless noted otherwise below.

### **§§ 1-3 — INVOLUNTARY TRANSFER OR DISCHARGE NOTIFICATION**

*Requires nursing homes to notify the Long-Term Care ombudsman about an involuntary transfer or discharge on the same day the resident is notified; failure to do so invalidates the transfer*

This bill requires nursing homes to notify the Long-Term Care Ombudsman about a resident's involuntary transfer or discharge on the same day the nursing home notifies the resident. The ombudsman must prescribe how to provide the notification.

By law, nursing homes must give residents and their representatives written notification about a discharge or transfer at least 30 days in advance, including information on the appeals process and the ombudsman's contact information. Under the bill, nursing homes must also notify the ombudsman on the same date if the transfer or discharge is involuntary. Current law grants the ombudsman access to a long-term care resident's medical and social records. The bill specifies that this includes access to discharge plans.

The bill also requires the facility to affirm to the resident being transferred or discharged and his or her representative that notice was given to the ombudsman. If a nursing home fails to notify the ombudsman, the involuntary transfer or discharge is invalidated and cannot go forward.

#### ***Background — Related Bill***

sSB 930 (File 99), reported favorably by the Aging Committee and passed by the Senate as amended by Senate Amendment "A," has similar provisions on notifying the ombudsman but does not require the facility to affirm to the resident that the ombudsman has been notified (§§ 1 & 2).

**Background — Involuntary Transfers and Discharges**

Under federal and state law, nursing homes cannot transfer or discharge a resident unless the (1) facility cannot provide the resident adequate care; (2) resident's health has improved to the point that he or she no longer needs the home's services; (3) health or safety of people in the facility are endangered; (4) resident failed to pay for care after reasonable notice; or (5) facility closes (42 C.F.R. § 483.15(c), CGS § 19a-535(b)).

**§§ 4 & 5 — MANAGED RESIDENTIAL COMMUNITIES FAMILY COUNCILS**

*Requires managed residential communities to encourage and help establish family councils by January 1, 2024*

The bill requires managed residential communities (MRCs) that offer assisted living services to encourage and help establish family councils by January 1, 2024. Under the bill, family councils are self-determined, independent groups of family members and friends who (1) advocate for an MRC's residents' needs and interests and (2) facilitate open communication between the MRC administration, residents, and residents' family and friends. A resident's family member or friend cannot participate in a council without the resident's consent unless the resident lives in a dementia special care unit.

**Background — Related Bill**

sSB 902 (File 78), reported favorably by the Aging Committee, has identical provisions on family councils.

sSB 930 (File 99), reported favorably by the Aging Committee and passed by the Senate as amended by Senate Amendment "A," has identical provisions (§§ 501 & 502).

**§ 6 — DEMENTIA SERVICES COORDINATOR**

*Establishes a dementia services coordinator position within the Department of Aging and Disability Services*

This bill establishes a dementia services coordinator within the Department of Aging and Disability Services (ADS). The coordinator's duties include:

1. coordinating dementia services across state agencies,
2. assessing and analyzing dementia-related data collected by the state,
3. evaluating state-funded dementia services,
4. identifying and supporting the development of dementia-specific training programs, and
5. other relevant duties the ADS commissioner determines.

EFFECTIVE DATE: October 1, 2023

**Background — Related Bill**

sSB 1024 (File 80), reported favorably by the Aging Committee, contains identical provisions.

**§ 7 — NURSING HOME FACILITY COST REPORTING REQUIREMENTS**

*Requires nursing homes to submit annual narrative cost expenditures summaries to DSS; requires the DSS commissioner to create a uniform narrative summary form for nursing homes to use; subjects nursing homes that do not comply with the reporting requirements to a fine of up to \$10,000*

Beginning with the current cost reporting year, the bill requires nursing homes to annually submit narrative summaries of cost expenditures to the Department of Social Services (DSS) commissioner, alongside their statutorily required cost reports. The summaries must include (1) profit and loss statements for the preceding three cost report years; (2) total revenue; (3) total expenditures; (4) total assets; (5) total liabilities; (6) short-term debt; (7) long-term debt; and (8) cash flows from investing, operating, and financing activities. The bill requires the DSS commissioner to develop and post on the agency's website a uniform narrative summary form for nursing homes to use to comply. Starting by January 1, 2024, the DSS commissioner must annually post these cost reports and summaries for each nursing home in a conspicuous place on the agency's website.

The bill requires a nursing home that fails to comply with this reporting requirement to be fined up to \$10,000. Before imposing a

penalty, the social services commissioner must notify the nursing home about the violation and allow it to request a review. The home must request a review within 15 days after receiving the notice, and DSS cannot impose the penalty while the review is pending.

Under the bill, the penalty may be imposed even if the nursing home's ownership changes after the violation takes place, as long as DSS issued the notice about the violation before the change in ownership became effective and the record of the notice is readily available in a central registry maintained by DSS. Payments made for these penalties must be deposited in the General Fund and credited to the Medicaid account.

EFFECTIVE DATE: July 1, 2023

**Background — Related Bill**

sHB 6678 (File 74), reported favorably by the Aging Committee and passed by the House as amended by House Amendment "A" (File 670), has similar provisions but does not require the DSS commissioner to develop a uniform narrative summary form (§ 1).

**§ 8 — NURSING HOME PRIVATE EQUITY OWNERSHIP**

*Requires nursing home licensure applicants to disclose any private equity company or real estate investment trust that owns any part of the home and give DPH the owner's audited and certified financial statements*

The bill expands the information that nursing home licensure applicants must give to the Department of Public Health (DPH) to include (1) information on any private equity company or real estate investment trust (REIT) that owns any part of the home and (2) the owner's audited and certified financial statements. If a private equity company or REIT owns any part of the home, then it must give DPH the same information the federal government requires when providers apply for and maintain enrollment in Medicare. The audited and certified financial statements must include a balance sheet from the end of the most recent fiscal year and income statements from the most recent fiscal year (or an applicable shorter period if the owner has not existed for a full fiscal year). Existing law, unchanged by the bill, allows the DPH commissioner to require an applicant to submit additional

information, including these statements.

EFFECTIVE DATE: July 1, 2023

**Background — Related Bill**

sHB 6678 (File 74), reported favorably by the Aging Committee and passed by the House as amended by House Amendment “A” (File 670), has similar provisions but with different reporting requirements (§ 2).

**§ 9 — RELATED PARTY INCOME REPORTING**

*Requires chronic and convalescent nursing homes that receive Medicaid funding to annually report a profit and loss statement from each related party that receives at least \$30,000 of income from the home*

The bill broadens certain reporting requirements for chronic and convalescent nursing homes that receive Medicaid funding. Current law requires these types of for-profit homes to include in their annual reports a profit and loss statement from each related party (i.e., a company related to the home through family association, common ownership, control, or business association with the home’s owners or operators) that receives at least \$50,000 of income from the home per year. The bill extends the requirement to all of these types of nursing homes, not just for-profits, and lowers the requirement's income threshold from \$50,000 to \$30,000.

EFFECTIVE DATE: July 1, 2023

**Background — Related Bill**

sHB 6678 (File 74), reported favorably by the Aging Committee and passed by the House as amended by House Amendment “A” (File 670), has similar provisions but a different income limit (§ 3).

**§ 10 — MEDICAID RATE SETTING GUIDEBOOK FOR NURSING HOMES**

*Requires the DSS commissioner to develop and post online a guidebook that explains in plain language the Medicaid nursing home rate setting process*

The bill requires the DSS commissioner to develop a guidebook that at least includes a glossary and a plain language (1) description of the Medicaid nursing home rate setting process and (2) explanation of terms related to it. The commissioner must post the guidebook in a

conspicuous place on the agency’s website by July 1, 2024, and may update it as needed.

**Background — Related Bill**

sHB 6678 (File 74), reported favorably by the Aging Committee and passed by the House as amended by House Amendment “A” (File 670), has identical provisions (§ 4).

**§ 11 — TRANSITION PLAN FOR HOMEMAKER-COMPANION AGENCY OVERSIGHT**

*Requires OPM to develop a plan and proposed timeline to transfer homemaker-companion agency oversight from DCP to DPH; the plan must also include recommendations on training standards and appropriate use of the term “care” to describe homemaker-companion services*

The bill requires the Office of Policy and Management (OPM) secretary to develop a plan and proposed timeline to transfer homemaker-companion agency registration and oversight responsibilities from the Department of Consumer Protection (DCP) to DPH. The plan must also include recommendations on training standards that (1) exemplify best practices for providing homemaker-companion services; (2) provide instruction and specialized training benchmarks for caring for clients with Alzheimer’s disease, dementia, and related conditions; and (3) ensure a high level of care for homemaker-companion agency clients. It may also evaluate and make recommendations on the appropriate use of the term “care” to describe services homemaker-companion agencies provide, and any limitations on using the term to ensure consumer clarity.

The secretary must prepare the plan in consultation with the DCP and DPH commissioners and report on it to the Aging, General Law, and Public Health committees by August 1, 2024.

**Background — Related Bill**

sSB 1025 (File 104), reported favorably by the Aging Committee and passed by the Senate as amended by Senate “A,” has identical provisions (§ 1).

**§ 12 — HOMEMAKER-COMPANION AGENCY REGISTRATION REVOCATION**



*Adds failure to give a consumer written notice that the agency provides nonmedical care to a list of violations for which DCP may revoke, suspend, or refuse to issue or renew a homemaker-companion agency's registration; requires DCP to revoke a homemaker-companion agency's registration if the agency is found to have violated any revokable provisions three times in a calendar year*

Current law generally allows the DCP commissioner to revoke, suspend, or refuse to issue or renew a homemaker-companion agency's registration for (1) conduct that misleads or defrauds the public or commissioner, (2) engaging in misleading advertising, (3) failing to give a consumer a notice of legal liabilities under certain circumstances, or (4) failing to complete background checks on prospective employees and maintain the materials from them. The bill also allows the commissioner to do this if an agency fails to give a consumer written notice, or obtain and maintain the consumer's signed copy of this notice, that the agency provides nonmedical care, as required by the bill (see § 17).

In addition, the bill requires the DCP commissioner to revoke a homemaker-companion agency's registration if the agency is found, through an administrative hearing, to have violated any of these provisions three times in a calendar year.

### ***Background — Related Bill***

sSB 1025 (File 104), reported favorably by the Aging Committee and passed by the Senate as amended by Senate "A," has identical provisions (§ 2).

## **§ 13 — HOMEMAKER-COMPANION AGENCY CONTRACTS & SERVICE PLANS**

*Requires homemaker-companion agencies to develop a service plan or contract in consultation with the consumer; the service plan or contract must include (1) a person-centered plan of care, (2) anticipated oversight by the agency of the employee assigned to the consumer, and (3) how often the person who oversees the agency's employee and the consumer will meet*

Current law requires homemaker-companion agencies to give consumers a written contract or service plan detailing the anticipated scope, type, frequency, duration, and cost of services provided by the agency within seven days of beginning services.

The bill additionally requires the agencies to develop this plan or

contract in consultation with the consumer and expands the information that must be in it to include:

1. a person-centered plan of care and services;
2. the anticipated scope, type, and frequency of oversight by the agency over the employee assigned to the consumer; and
3. how often the person who oversees the agency's employee and the consumer will meet.

EFFECTIVE DATE: October 1, 2023

***Background — Related Bill***

sSB 1025 (File 104), reported favorably by the Aging Committee and passed by the Senate as amended by Senate "A," contains identical provisions (§ 5).

**§§ 13 & 14 — HOMEMAKER-COMPANION AGENCY CONSUMER COMPLAINTS**

*Requires DCP to post on its website a guide detailing the process for consumers to file complaints against a homemaker-companion agency; requires agencies to give consumers a printed copy of this guide with their contract or service plan*

The bill requires the DCP commissioner, by October 1, 2023, to post on DCP's website a guide detailing the process for homemaker-companion agency consumers to file complaints against an agency. It requires the agencies to also give consumers a printed copy of this guide when they give them the written contract or service plan as described above.

EFFECTIVE DATE: Upon passage, except the requirement that consumers are given a printed copy of the guide is effective October 1, 2023.

***Background — Related Bill***

sSB 1025 (File 104), reported favorably by the Aging Committee and passed by the Senate as amended by Senate "A," has identical provisions (§§ 5 & 6).

**§§ 15-17 — HOMEMAKER-COMPANION AGENCY ADVERTISING AND SCOPE OF SERVICES**

*Requires every homemaker-companion agency to create a brochure and maintain a website detailing the services it provides; allows a homemaker-companion agency to (1) use the word “care” in its business name and advertising and (2) advertise having employees trained to provide services to people with memory difficulties, if certain requirements are met; requires a homemaker-companion agency to give consumers written notice that the agency provides nonmedical care and obtain the consumer’s signature on this notice before providing services*

**Brochure and Website (§ 15)**

The bill requires every homemaker-companion agency, by January 1, 2024, to (a) create a printed consumer brochure and maintain a website detailing the services it provides and (b) give the brochure or website address when a consumer requests it.

**Advertising (§ 16)**

Under the bill, a homemaker-companion agency may use the term “care” in its business name and advertising, as long as, starting October 1, 2023, any advertising meets certain conditions. Specifically, it must (1) prominently display in plain font and contrasting colors at the top of the ad, the clear and conspicuous words: “(agency’s name) solely provides nonmedical care,” or audibly convey these words in an audio advertisement at the same speed as the rest of the audio, and (2) not use any words, such as those related to medical or health care licensure or services, to describe services beyond the scope of those a homemaker-companion agency is authorized to provide. The requirement to display the disclaimer at the top of the ad applies to each page of the agency’s web site, social media posts, print media, and audio-visual advertisements. A violation of this provision constitutes untruthful or misleading advertising.

The bill allows a homemaker-companion agency to use in its advertising any words deemed appropriate by the DCP commissioner to accurately describe having employees trained to provide services to people with memory difficulties, as long as the agency details the type and number of hours of training these employees received. A violation of this provision also constitutes untruthful or misleading advertising.

**Notice (§ 17)**

The bill requires a homemaker-companion agency, before providing services, to (1) give consumers written notice that the agency provides nonmedical care and (2) obtain the consumer’s signature on this notice. The agency must keep the signed notice until the consumer no longer receives services from the agency and make a copy of the signed notice available to the DCP commissioner upon request.

***Background — Related Bill***

sSB 1025 (File 104), reported favorably by the Aging Committee and passed by the Senate as amended by Senate “A,” has similar provisions but the advertising requirements are different (§§ 7-9 & 501).

**COMMITTEE ACTION**

Aging Committee

Joint Favorable

Yea 12    Nay 3    (02/28/2023)