



House of Representatives

General Assembly

File No. 474

January Session, 2023

House Bill No. 6731

House of Representatives, April 6, 2023

The Committee on Public Health reported through REP. MCCARTHY VAHEY of the 133rd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

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:

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 Section 19a-493 of the general statutes is repealed and the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

3 (a) Upon receipt of an application for an initial license, the
4 Department of Public Health, subject to the provisions of section 19a-
5 491a, shall issue such license if, upon conducting a scheduled inspection
6 and investigation, the department finds that the applicant and facilities
7 meet the requirements established under section 19a-495, provided a
8 license shall be issued to or renewed for an institution, as defined in
9 section 19a-490, only if such institution is not otherwise required to be
10 licensed by the state. If an institution, as defined in subsections (b), (d),
11 (e) and (f) of section 19a-490, applies for license renewal and has been
12 certified as a provider of services by the United States Department of
13 Health and Human Services under Medicare or Medicaid programs

14 within the immediately preceding twelve-month period, or if an
15 institution, as defined in subsection (b) of section 19a-490, is currently
16 certified, the commissioner or the commissioner's designee may waive
17 on renewal the inspection and investigation of such facility required by
18 this section and, in such event, any such facility shall be deemed to have
19 satisfied the requirements of section 19a-495 for the purposes of
20 licensure. Such license shall be valid for two years or a fraction thereof
21 and shall terminate on March thirty-first, June thirtieth, September
22 thirtieth or December thirty-first of the appropriate year. A license
23 issued pursuant to this chapter, unless sooner suspended or revoked,
24 shall be renewable biennially (1) after an unscheduled inspection is
25 conducted by the department, and (2) upon the filing by the licensee,
26 and approval by the department, of a report upon such date and
27 containing such information in such form as the department prescribes
28 and satisfactory evidence of continuing compliance with requirements
29 established under section 19a-495. In the case of an institution, as
30 defined in subsection (d) of section 19a-490, that is also certified as a
31 provider under the Medicare program, the license shall be issued for a
32 period not to exceed three years, to run concurrently with the
33 certification period. In the case of an institution, as defined in subsection
34 (m) of section 19a-490, that is applying for renewal, the license shall be
35 issued pursuant to section 19a-491. Except in the case of a multicare
36 institution, each license shall be issued only for the premises and
37 persons named in the application. Such license shall not be transferable
38 or assignable. Licenses shall be posted in a conspicuous place in the
39 licensed premises.

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

46 [(2)] (c) (1) (A) For the purposes of this subsection, (i) "a person
47 related by blood or marriage" means a parent, spouse, child, brother,

48 sister, aunt, uncle, niece or nephew, (ii) "business entity" means a
49 corporation, association, trust, estate, partnership, limited partnership,
50 limited liability partnership, limited liability company, sole
51 proprietorship, joint stock company, nonstock corporation or other legal
52 entity, (iii) "facility" means any facility licensed by the Department of
53 Public Health pursuant to chapter 368v, (iv) "institution" has the same
54 meaning as provided in section 19a-490, and (v) "organizational chart"
55 means a graphical representation of an organization, including, but not
56 limited to, the relationships between such organization's ownership
57 interests, employees, departments and the jobs within such
58 organization.

59 (B) For the purposes of this subsection, (i) a change in the legal form
60 of the ownership entity, including, but not limited to, changes from a
61 corporation to a limited liability company, a partnership to a limited
62 liability partnership, a sole proprietorship to a corporation and similar
63 changes, shall not be considered a change in ownership if the beneficial
64 ownership remains unchanged and the owner provides such
65 information regarding the change to the department as may be required
66 by the commissioner to properly identify the current status of
67 ownership and beneficial ownership of the facility or institution, and (ii)
68 a public offering of the stock of any corporation that owns, conducts,
69 operates or maintains any facility or institution shall not be considered
70 a change in ownership or beneficial ownership of such facility or
71 institution if the licensee and the officers and directors of such
72 corporation remain unchanged, such public offering cannot result in an
73 individual or entity owning ten per cent or more of the stock of such
74 corporation, and the owner provides such information to the
75 department as may be required by the department in order to properly
76 identify the current status of ownership and beneficial ownership of the
77 facility or institution.

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

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

85 (ii) A decertification, termination or exclusion from Medicaid or
86 Medicare participation, including denial of payment for new
87 admissions, imposed by the Department of Public Health or by the
88 Centers for Medicare and Medicaid Services, as a result of
89 noncompliance with Medicaid or Medicare conditions of participation;

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

93 (iv) A determination that the provider is a "poor performer" on the
94 basis of a finding of substandard quality of care or immediate jeopardy,
95 as described in 42 CFR 488, on the current survey and on a survey
96 during one of the two preceding years. For the purposes of this
97 subparagraph, "substandard quality of care" means the failure to meet
98 one or more requirements of 42 CFR 483.13, 42 CFR 483.15 or 42 CFR
99 483.25, that constitute either immediate jeopardy to resident health or
100 safety, a pattern of or widespread actual harm that is not immediate
101 jeopardy or a widespread potential for more than minimal harm, but
102 less than immediate jeopardy, with no actual harm; or

103 (v) A determination that the facility has failed to correct deficiencies
104 that have been cited, and that has resulted in a denial by the Centers for
105 Medicare and Medicaid Services of payment for new admissions or a
106 requirement by the department to curtail admission.

107 (2) Any change in the ownership or beneficial ownership of a facility
108 or institution [, as defined in section 19a-490,] owned by an individual [,
109 partnership or association or the change in ownership or beneficial
110 ownership of ten per cent or more of the stock of a corporation which]
111 or a business entity that owns, conducts, operates or maintains such
112 facility or institution, including a change in ownership or beneficial
113 ownership resulting in a transfer to a person related by blood or

114 marriage to an owner or a beneficial owner, shall be subject to prior
115 approval of the department. [after a scheduled inspection of such facility
116 or institution is conducted by the department, provided such approval
117 shall be conditioned upon a showing by such facility or institution to the
118 commissioner that it has complied with all requirements of this chapter,
119 the regulations relating to licensure and all applicable requirements of
120 the regulations of Connecticut state agencies. Any such change in
121 ownership or beneficial ownership resulting in a transfer to a person
122 related by blood or marriage to such an owner or beneficial owner shall
123 not be subject to prior approval of the department unless: (A)
124 Ownership or beneficial ownership of ten per cent or more of the stock
125 of a corporation, limited liability company, partnership or association
126 which owns, conducts, operates or maintains more than one facility or
127 institution is transferred; (B) ownership or beneficial ownership is
128 transferred in more than one facility or institution; or (C) the facility or
129 institution is the subject of a pending complaint, investigation or
130 licensure action. If the facility or institution is not in compliance, the
131 commissioner may require the new owner to sign a consent order
132 providing reasonable assurances that the violations shall be corrected
133 within a specified period of time. Notice of any such proposed change
134 of ownership shall be given to the department at least one hundred
135 twenty days prior to the effective date of such proposed change. For the
136 purposes of this subdivision, "a person related by blood or marriage"
137 means a parent, spouse, child, brother, sister, aunt, uncle, niece or
138 nephew. For the purposes of this subdivision, a change in the legal form
139 of the ownership entity, including, but not limited to, changes from a
140 corporation to a limited liability company, a partnership to a limited
141 liability partnership, a sole proprietorship to a corporation and similar
142 changes, shall not be considered a change of ownership if the beneficial
143 ownership remains unchanged and the owner provides such
144 information regarding the change to the department as may be required
145 by the department in order to properly identify the current status of
146 ownership and beneficial ownership of the facility or institution. For the
147 purposes of this subdivision, a public offering of the stock of any
148 corporation that owns, conducts, operates or maintains any such facility

149 or institution shall not be considered a change in ownership or beneficial
150 ownership of such facility or institution if the licensee and the officers
151 and directors of such corporation remain unchanged, such public
152 offering cannot result in an individual or entity owning ten per cent or
153 more of the stock of such corporation, and the owner provides such
154 information to the department as may be required by the department in
155 order to properly identify the current status of ownership and beneficial
156 ownership of the facility or institution.]

157 (3) Not later than one hundred twenty days before the proposed date
158 of a change in ownership or beneficial ownership of a facility or
159 institution, the proposed new owner, or in the case of a change in
160 beneficial ownership, the current owner, of such facility or institution
161 shall submit an application for approval to the department. Such
162 application shall be in a form and manner prescribed by the
163 commissioner and shall include, but need not be limited to, the
164 following:

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

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

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

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

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

179 (F) A copy of the agreement of sale or other transfer of ownership

180 interests and, if applicable, a copy of any lease or management
181 agreements that will be in effect after the transaction;

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

187 (i) Disclosure of any direct or indirect interests, including such
188 interests in intermediate entities and parent, management and property
189 companies and other related entities arising from such ownership,
190 operation or management;

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

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

195 (I) Three or more civil penalties imposed through final order of the
196 commissioner in accordance with the provisions of sections 19a-524 to
197 19a-528, inclusive, or civil penalties imposed pursuant to the laws or
198 regulations of another state during the two-year period preceding the
199 date on which such application is submitted;

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

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

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

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

213 (H) Disclosure of whether each proposed new owner has ever been
214 convicted or pleaded guilty to a charge of fraud, patient or resident
215 abuse or neglect or a crime of violence or moral turpitude.

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

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

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

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

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

241 (6) Notwithstanding the provisions of subdivision (5) of this
242 subsection, the commissioner may deny an application if the
243 commissioner determines that there is a pending investigation of actions
244 of the applicant at any facility operated or managed by the applicant
245 that, if substantiated, would constitute a threat to the life, safety or
246 quality of care of the patients or residents until such time as there is a
247 final determination of the allegations underlying the investigation.

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

251 [(c)] (d) (1) A multicare institution may, under the terms of its existing
252 license, provide behavioral health services or substance use disorder
253 treatment services on the premises of more than one facility, at a satellite
254 unit or at another location outside of its facilities or satellite units that is
255 acceptable to the patient receiving services and is consistent with the
256 patient's assessment and treatment plan. Such behavioral health
257 services or substance use disorder treatment services may include
258 methadone delivery and related substance use treatment services to
259 persons in a nursing home facility pursuant to the provisions of section
260 19a-495c or in a mobile narcotic treatment program, as defined in 21 CFR
261 1300.

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

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

278 (4) The Commissioner of Public Health may adopt regulations, in
 279 accordance with the provisions of chapter 54, to carry out the provisions
 280 of this subsection. The Commissioner of Public Health may implement
 281 policies and procedures necessary to administer the provisions of this
 282 subsection while in the process of adopting such policies and
 283 procedures as regulation, provided the commissioner prints notice of
 284 intent to adopt regulations in the Connecticut Law Journal not later than
 285 twenty days after the date of implementation. Policies and procedures
 286 implemented pursuant to this section shall be valid until the time final
 287 regulations are adopted.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	19a-493

PH *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which expands the circumstances under which licensed healthcare entity ownership changes need prior approval from the Department of Public Health, among other provisions, is not anticipated to result in a fiscal impact to the State or municipalities.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**HB 6731*****AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING CHANGE IN OWNERSHIP OF HEALTH CARE FACILITIES.*****SUMMARY**

This bill expands the circumstances under which licensed health care facility or institution ("facility") ownership changes need prior approval from the Department of Public Health (DPH). It does so by eliminating exemptions in current law for (1) changes in ownership or beneficial ownership of under 10% of the stock of a corporation that owns or operates the facility or (2) certain transfers to relatives.

As under current law, these provisions apply to all DPH-licensed facilities (e.g., hospitals, behavioral health facilities, nursing homes, outpatient surgical facilities, or home health care agencies).

The bill requires proposed new owners to submit several documents and other information to DPH as part of its review of the transfer, such as (1) a copy of the sale or transfer agreement; (2) organizational charts, if applicable; and (3) information on certain prior penalties or sanctions in any state. As under current law, the bill requires DPH to inspect facilities before approving an ownership change.

The bill establishes the criteria that the commissioner must consider when evaluating an application and sets conditions under which she may deny it (for example, if other facilities the person owned or operated were subject to specified adverse actions). The bill prohibits someone from applying to acquire ownership in a facility if DPH denied a prior application by the person's relative.

It also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2023

APPROVAL PROCESS FOR HEALTH CARE FACILITY OWNERSHIP CHANGES

Scope of Requirement

The bill subjects all transfers of ownership or beneficial ownership of DPH-licensed health care facilities to prior approval by the department. This includes (1) direct ownership changes or (2) changes in the ownership of the business entity that owns, operates, or maintains the facility.

The bill does so by eliminating two exemptions from current law. First, it eliminates the exemption for changes in ownership or beneficial ownership of under 10% of the stock of a corporation that owns, operates, or maintains the facility.

Second, it eliminates the exemption for certain transfers to relatives, including relatives by marriage (specifically parents, spouses, children, siblings, aunts, uncles, nieces, or nephews). Current law exempts these transfers unless they involve (1) at least 10% of the ownership or beneficial ownership of the entity that owns, operates, or maintains more than one facility; (2) multiple facilities; or (3) a facility that is the subject of a pending complaint, investigation, or licensure action. The bill specifies that changes in ownership or beneficial ownership resulting in transfers to these relatives to owners or beneficial owners are subject to prior approval.

By law, unchanged by the bill, the following are not considered to be ownership changes and do not require DPH approval: (1) a change in an entity's legal form of ownership (e.g., a corporation becoming a limited liability company) that does not change the beneficial ownership or (2) a public stock offering meeting certain requirements (e.g., it does not result in someone owning 10% or more of the stock).

Application Process

Current law requires at least 120 days' prior notice to DPH before a proposed facility ownership change, but it does not specify the

application process.

The bill requires the proposed new owner (or current owner, for changes in beneficial ownership) to apply within this same timeframe, in a way the commissioner sets. The application must include the following materials and information:

1. a cover letter identifying the facility by name, address, county, and number and type of licensed beds;
2. a description of the proposed transaction;
3. the names of each current owner and proposed new owner or beneficial owner;
4. the names of each owner of any non-publicly traded parent corporation of each proposed new owner and beneficial owner;
5. if applicable, organizational charts for the (a) current owner (showing the change in beneficial ownership) and (b) proposed new owner, its parent business entity, and its wholly owned subsidiaries;
6. a copy of the sale agreement or other transfer of ownership document and any lease or management agreements;
7. disclosures of whether each proposed new owner was ever convicted or pled guilty to fraud, patient or resident abuse or neglect, or a crime of violence or moral turpitude; and
8. various disclosures for certain other facilities (see below).

Other Facilities. Under the bill, the application also must include the name and address of any U.S.-based (including territories) licensed health care facility each proposed new owner or beneficial owner owned, operated, or managed during the prior five years. The bill requires several disclosures related to these facilities.

The application must disclose any direct or indirect interest arising

from the person's ownership, operation, or management of these facilities. This includes interests in intermediate entities; parent, management, and property companies; and other related entities.

The application must disclose whether each facility is the subject of a pending complaint, investigation, or licensure action. Additionally, it must disclose whether each facility has been subject to the following:

1. three or more civil penalties imposed through DPH final orders or civil penalties in other states during the prior two years;
2. Medicare or Medicaid sanctions in any state, other than civil penalties of \$20,000 or less;
3. termination or nonrenewal of a Medicare or Medicaid provider agreement;
4. any violations of any state licensing or federal certification standard on inappropriate admission denials or discharges; and
5. any state licensure or federal certification deficiency, during the prior five years, that presented a serious risk to the life, safety, or quality of care of the facility's patients or residents.

Under the bill, these serious risks include deficiencies that led to:

1. a state or federal agency action to ban, curtail, or temporarily suspend facility admissions or suspend or revoke its license;
2. a Medicare or Medicare decertification, termination, or exclusion from participation, including denying payment for new admissions, imposed by DPH or the federal Centers for Medicare and Medicaid Services (CMS), due to noncompliance with Medicare or Medicaid conditions of participation;
3. a citation of any deficiency that constitutes a pattern or widespread scope of harm or immediate jeopardy, or any deficiency causing widespread actual harm, as described in specified CMS regulations (for these purposes, "immediate

jeopardy” is a situation where noncompliance with certain CMS requirements caused, or is likely to cause, a resident’s serious injury, harm, impairment, or death);

4. a determination that the facility failed to correct cited deficiencies that led to CMS denying payment for new admissions or DPH requiring the facility to curtail admissions; or
5. a determination that the provider is a poor performer based on a finding of substandard quality of care or immediate jeopardy on the current survey and on a survey in either of the two prior years.

Under the bill, “substandard quality of care” means the failure to meet specified CMS requirements that constitute either (1) immediate jeopardy to resident health or safety; (2) a pattern of or widespread actual harm that is not immediate jeopardy; or (3) a widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm. Generally, these requirements concern long term care facility (1) admission, transfer, and discharge rights and (2) quality of care in numerous areas (e.g., respiratory care and pain management) (42 C.F.R. §§ 483.15 & 483.25).

Inspection

Similar to current law, the bill requires DPH, after receiving an application for an ownership change, to inspect the facility to ensure its compliance with applicable laws and regulations.

Grounds to Deny Application

The bill requires the commissioner, when evaluating an application, to consider whether each proposed new owner and beneficial owner demonstrates character and competence and quality of care. She must also consider whether any licensed facilities they owned, operated, or managed (in the U.S. and its territories) has an acceptable history of compliance in the past five years with (1) state licensure and regulatory requirements and (2) federal requirements.

Under the bill, the commissioner may deny an application if these qualities are not demonstrated, as shown by the following:

1. the facility was subject to any adverse action listed in the application (e.g., termination of a Medicare or Medicaid provider agreement or certain licensing or certification deficiencies);
2. the facility had continuing violations, or a pattern of them, of state licensure or federal certification standards; or
3. the applicant's criminal conviction or guilty plea to any crime listed on the application (e.g., patient abuse or neglect).

The bill also allows the commissioner to temporarily deny an application if she determines that there are certain pending investigations of the applicant's actions at any facility it operates or manages. This applies when the investigation, if substantiated, would constitute a threat to patient or resident life, safety, or quality of care. She may deny the application until there is a final determination of the investigation.

Additionally, if the commissioner denies an application, the bill prohibits the applicant's relatives from applying to acquire an ownership interest in the facility.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 25 Nay 12 (03/20/2023)