

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 23-48—HB 5781

Aging Committee

AN ACT CONCERNING NOTICE OF A PROPOSED INVOLUNTARY TRANSFER OR DISCHARGE OF A NURSING FACILITY RESIDENT, FAMILY COUNCILS IN MANAGED RESIDENTIAL COMMUNITIES, COORDINATION OF DEMENTIA SERVICES, NURSING HOME TRANSPARENCY AND HOMEMAKER-COMPANION AGENCIES

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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 which must include (1) a person-centered plan of care, (2) the agency’s anticipated oversight 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 act sets certain 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.

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

The act requires nursing homes to notify the long-term care ombudsman about a proposed involuntary transfer or discharge of a resident on the same day the nursing home notifies the resident. The ombudsman must prescribe how to provide

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the notification.

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

The act 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.

Lastly, the act makes technical and conforming changes.

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 offering assisted living services to encourage and help establish family councils by January 1, 2024

The act requires managed residential communities (MRCs) that offer assisted living services to encourage and help establish family councils by January 1, 2024. Under the act, 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 its 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.

EFFECTIVE DATE: October 1, 2023

§ 6 — DEMENTIA SERVICES COORDINATOR

Establishes a dementia services coordinator position within ADS

The act 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,

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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

§ 7 — NURSING HOME FACILITY COST REPORTING REQUIREMENTS

Requires (1) nursing homes to submit annual narrative cost expenditures summaries to DSS and (2) the DSS commissioner to create a form for these submissions; subjects violators to a fine of up to \$10,000

Beginning with the current cost reporting year (ending September 30, 2023), the act 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, expenditures, assets, and liabilities; (3) short- and long-term debt; and (4) cash flows from investing, operating, and financing activities.

The act 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 commissioner must annually post these cost reports and summaries for each nursing home in a conspicuous place on the agency's website.

Under the act, nursing homes that fail to comply with this reporting requirement must be fined up to \$10,000. Before imposing a penalty, the DSS 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.

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 notice's record 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

§ 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 act expands the information that nursing home licensure applicants must give 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

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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 act, allows the DPH commissioner to require an applicant to submit additional information, including these statements.

EFFECTIVE DATE: July 1, 2023

§ 9 — RELATED PARTY INCOME REPORTING

Broadens the related party income reporting requirement for chronic and convalescent nursing homes that receive Medicaid funding by extending it to nonprofit homes and lowering the income threshold for related parties from \$50,000 to \$30,000

The act broadens certain reporting requirements for chronic and convalescent nursing homes that receive Medicaid funding. Prior law required 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 received at least \$50,000 of income from the home per year. The act 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

§ 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 act 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.

§ 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; requires the plan to include recommendations on training standards and allows for recommendations on appropriate use of the term "care" to describe homemaker-companion services

The act 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

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standards that (1) exemplify best practices for providing homemaker-companion services; (2) include 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.

§ 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

Existing law generally allows the DCP commissioner to revoke, suspend, or refuse to issue or renew a homemaker-companion agency’s registration for (1) misleading or defrauding 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 act 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 act (see § 17).

In addition, the act 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.

§ 13 — HOMEMAKER-COMPANION AGENCY CONTRACTS & SERVICE PLANS

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

Existing 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 act additionally requires the agencies to develop this plan or contract in consultation with the consumer and expands its required content to include:

1. a person-centered plan of care and services;

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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

§§ 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 act 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 to give consumers a printed copy of the guide is effective October 1, 2023.

§§ 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 act requires every homemaker-companion agency, by January 1, 2024, to (1) create a printed consumer brochure and maintain a website detailing the services it provides and (2) give the brochure or website address when a consumer requests it.

Advertising (§ 16)

Under the act, starting October 1, 2023, a homemaker-companion agency may use the term "care" in its business name and advertising as long as its 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

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authorized to provide. The requirement to display the disclaimer at the top of the ad applies to each page of the agency's website, social media posts, print media, and audio-visual advertisements. A violation of this provision constitutes untruthful or misleading advertising.

The act 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 act 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.