



General Assembly

Substitute Bill No. 1109

January Session, 2023



**AN ACT CONCERNING MEDICAID REIMBURSEMENT TO
COMMUNITY LIVING ARRANGEMENTS, INTERMEDIATE CARE
FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES,
RESIDENTIAL CARE HOMES AND NURSING FACILITIES.**

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

1 Section 1. Section 17b-244 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

3 (a) The room and board component of the rates to be paid by the
4 state to private facilities and facilities operated by regional education
5 service centers which are licensed to provide residential care pursuant
6 to section 17a-227, but not certified to participate in the Title XIX
7 Medicaid program as intermediate care facilities for individuals with
8 intellectual disabilities, shall be determined annually by the
9 Commissioner of Social Services. [, except that rates effective April 30,
10 1989, shall remain in effect through October 31, 1989. Any facility with
11 real property other than land placed in service prior to July 1, 1991,
12 shall, for the fiscal year ending June 30, 1995, receive a rate of return on
13 real property equal to the average of the rates of return applied to real
14 property other than land placed in service for the five years preceding
15 July 1, 1993.] For the fiscal year ending June 30, 1996, and any
16 succeeding fiscal year, the rate of return on real property for property
17 items shall be revised every five years. The commissioner shall, upon

18 submission of a request by such facility, allow actual debt service,
19 comprised of principal and interest, on the loan or loans in lieu of
20 property costs allowed pursuant to section 17-313b-5 of the regulations
21 of Connecticut state agencies, whether actual debt service is higher or
22 lower than such allowed property costs, provided such debt service
23 terms and amounts are reasonable in relation to the useful life and the
24 base value of the property. In the case of facilities financed through the
25 Connecticut Housing Finance Authority, the commissioner shall allow
26 actual debt service, comprised of principal, interest and a reasonable
27 repair and replacement reserve on the loan or loans in lieu of property
28 costs allowed pursuant to section 17-313b-5 of the regulations of
29 Connecticut state agencies, whether actual debt service is higher or
30 lower than such allowed property costs, provided such debt service
31 terms and amounts are determined by the commissioner at the time
32 the loan is entered into to be reasonable in relation to the useful life
33 and base value of the property. The commissioner may allow fees
34 associated with mortgage refinancing provided such refinancing will
35 result in state reimbursement savings, after comparing costs over the
36 terms of the existing proposed loans. For the fiscal year ending June 30,
37 1992, the inflation factor used to determine rates shall be one-half of
38 the gross national product percentage increase for the period between
39 the midpoint of the cost year through the midpoint of the rate year. For
40 fiscal year ending June 30, 1993, the inflation factor used to determine
41 rates shall be two-thirds of the gross national product percentage
42 increase from the midpoint of the cost year to the midpoint of the rate
43 year. For the fiscal years ending June 30, 1996, and June 30, 1997, no
44 inflation factor shall be applied in determining rates. The
45 Commissioner of Social Services shall prescribe uniform forms on
46 which such facilities shall report their costs. Such rates shall be
47 determined on the basis of a reasonable payment for necessary
48 services. Any increase in grants, gifts, fund-raising or endowment
49 income used for the payment of operating costs by a private facility in
50 the fiscal year ending June 30, 1992, shall be excluded by the
51 commissioner from the income of the facility in determining the rates
52 to be paid to the facility for the fiscal year ending June 30, 1993,

53 provided any operating costs funded by such increase shall not
54 obligate the state to increase expenditures in subsequent fiscal years.
55 Nothing contained in this section shall authorize a payment by the
56 state to any such facility in excess of the charges made by the facility
57 for comparable services to the general public. The service component
58 of the rates to be paid by the state to private facilities and facilities
59 operated by regional education service centers which are licensed to
60 provide residential care pursuant to section 17a-227, but not certified
61 to participate in the Title XIX Medicaid programs as intermediate care
62 facilities for individuals with intellectual disabilities, shall be
63 determined annually by the Commissioner of Developmental Services
64 in accordance with section 17b-244a. For the fiscal year ending June 30,
65 2008, no facility shall receive a rate that is more than two per cent
66 greater than the rate in effect for the facility on June 30, 2007, except
67 any facility that would have been issued a lower rate effective July 1,
68 2007, due to interim rate status or agreement with the department,
69 shall be issued such lower rate effective July 1, 2007. For the fiscal year
70 ending June 30, 2009, no facility shall receive a rate that is more than
71 two per cent greater than the rate in effect for the facility on June 30,
72 2008, except any facility that would have been issued a lower rate
73 effective July 1, 2008, due to interim rate status or agreement with the
74 department, shall be issued such lower rate effective July 1, 2008. For
75 the fiscal years ending June 30, 2010, and June 30, 2011, rates in effect
76 for the period ending June 30, 2009, shall remain in effect until June 30,
77 2011, except that (1) the rate paid to a facility may be higher than the
78 rate paid to the facility for the period ending June 30, 2009, if a capital
79 improvement required by the Commissioner of Developmental
80 Services for the health or safety of the residents was made to the
81 facility during the fiscal years ending June 30, 2010, or June 30, 2011,
82 and (2) any facility that would have been issued a lower rate for the
83 fiscal year ending June 30, 2010, or June 30, 2011, due to interim rate
84 status or agreement with the department, shall be issued such lower
85 rate. For the fiscal year ending June 30, 2012, rates in effect for the
86 period ending June 30, 2011, shall remain in effect until June 30, 2012,
87 except that (A) the rate paid to a facility may be higher than the rate

88 paid to the facility for the period ending June 30, 2011, if a capital
89 improvement required by the Commissioner of Developmental
90 Services for the health or safety of the residents was made to the
91 facility during the fiscal year ending June 30, 2012, and (B) any facility
92 that would have been issued a lower rate for the fiscal year ending
93 June 30, 2012, due to interim rate status or agreement with the
94 department, shall be issued such lower rate. Any facility that has a
95 significant decrease in land and building costs shall receive a reduced
96 rate to reflect such decrease in land and building costs. The rate paid to
97 a facility may be increased if a capital improvement approved by the
98 Department of Developmental Services, in consultation with the
99 Department of Social Services, for the health or safety of the residents
100 was made to the facility during the fiscal year ending June 30, 2014, or
101 June 30, 2015, only to the extent such increases are within available
102 appropriations. For the fiscal years ending June 30, 2016, and June 30,
103 2017, rates shall not exceed those in effect for the period ending June
104 30, 2015, except the rate paid to a facility may be higher than the rate
105 paid to the facility for the period ending June 30, 2015, if a capital
106 improvement approved by the Department of Developmental Services,
107 in consultation with the Department of Social Services, for the health
108 or safety of the residents was made to the facility during the fiscal year
109 ending June 30, 2016, or June 30, 2017, to the extent such rate increases
110 are within available appropriations. For the fiscal years ending June 30,
111 2016, and June 30, 2017, and each succeeding fiscal year, any facility
112 that would have been issued a lower rate, due to interim rate status, a
113 change in allowable fair rent or agreement with the department, shall
114 be issued such lower rate. For the fiscal years ending June 30, 2018, and
115 June 30, 2019, rates shall not exceed those in effect for the period
116 ending June 30, 2017, except the rate paid to a facility may be higher
117 than the rate paid to the facility for the period ending June 30, 2017, if a
118 capital improvement approved by the Department of Developmental
119 Services, in consultation with the Department of Social Services, for the
120 health or safety of the residents was made to the facility during the
121 fiscal year ending June 30, 2018, or June 30, 2019, to the extent such rate
122 increases are within available appropriations. For the fiscal years

123 ending June 30, 2020, and June 30, 2021, rates shall not exceed those in
124 effect for the fiscal year ending June 30, 2019, except the rate paid to a
125 facility may be higher than the rate paid to the facility for the fiscal
126 year ending June 30, 2019, if a capital improvement approved by the
127 Department of Developmental Services, in consultation with the
128 Department of Social Services, for the health or safety of the residents
129 was made to the facility during the fiscal year ending June 30, 2020, or
130 June 30, 2021, to the extent such rate increases are within available
131 appropriations. For the fiscal years ending June 30, 2022, and June 30,
132 2023, rates shall be based upon rates in effect for the fiscal year ending
133 June 30, 2021, inflated by the gross domestic product deflator
134 applicable to each rate year, except the commissioner may, in the
135 commissioner's discretion and within available appropriations,
136 provide pro rata fair rent increases to facilities which have
137 documented fair rent additions placed in service in the cost report
138 years ending September 30, 2020, and September 30, 2021, that are not
139 otherwise included in rates issued, or if a rate adjustment for a capital
140 improvement approved by the Department of Developmental Services,
141 in consultation with the Department of Social Services, for the health
142 or safety of the residents was made to the facility during the fiscal year
143 ending June 30, 2022, or June 30, 2023.

144 (b) Notwithstanding the provisions of subsection (a) of this section,
145 state rates of payment for the fiscal years ending June 30, 2018, June 30,
146 2019, June 30, 2020, and June 30, 2021, for residential care homes and
147 community living arrangements that receive the flat rate for residential
148 services under section 17-311-54 of the regulations of Connecticut state
149 agencies shall be set in accordance with section 298 of public act 19-
150 117. For the fiscal years ending June 30, 2022, and June 30, 2023, rates
151 shall be based upon rates in effect for the fiscal year ending June 30,
152 2021, inflated by the gross domestic product deflator applicable to each
153 rate year.

154 (c) For the fiscal year ending June 30, 2024, and each subsequent
155 fiscal year, the commissioner may, in the commissioner's discretion

156 and within available appropriations, provide pro rata fair rent
157 increases to facilities which have documented fair rent additions
158 placed in service in the cost report years that are not otherwise
159 included in rates issued.

160 [(c)] (d) The Commissioner of Social Services and the Commissioner
161 of Developmental Services shall adopt regulations in accordance with
162 the provisions of chapter 54 to implement the provisions of this
163 section.

164 Sec. 2. Subsection (h) of section 17b-340 of the general statutes is
165 repealed and the following is substituted in lieu thereof (*Effective July*
166 *1, 2023*):

167 (h) (1) For the fiscal year ending June 30, 1993, any intermediate care
168 facility for individuals with intellectual disabilities with an operating
169 cost component of its rate in excess of one hundred forty per cent of
170 the median of operating cost components of rates in effect January 1,
171 1992, shall not receive an operating cost component increase. For the
172 fiscal year ending June 30, 1993, any intermediate care facility for
173 individuals with intellectual disabilities with an operating cost
174 component of its rate that is less than one hundred forty per cent of the
175 median of operating cost components of rates in effect January 1, 1992,
176 shall have an allowance for real wage growth equal to thirty per cent
177 of the increase determined in accordance with subsection (q) of section
178 17-311-52 of the regulations of Connecticut state agencies, provided
179 such operating cost component shall not exceed one hundred forty per
180 cent of the median of operating cost components in effect January 1,
181 1992. Any facility with real property other than land placed in service
182 prior to October 1, 1991, shall, for the fiscal year ending June 30, 1995,
183 receive a rate of return on real property equal to the average of the
184 rates of return applied to real property other than land placed in
185 service for the five years preceding October 1, 1993. For the fiscal year
186 ending June 30, 1996, and any succeeding fiscal year, the rate of return
187 on real property for property items shall be revised every five years.
188 The commissioner shall, upon submission of a request, allow actual

189 debt service, comprised of principal and interest, in excess of property
190 costs allowed pursuant to section 17-311-52 of the regulations of
191 Connecticut state agencies, provided such debt service terms and
192 amounts are reasonable in relation to the useful life and the base value
193 of the property. For the fiscal year ending June 30, 1995, and any
194 succeeding fiscal year, the inflation adjustment made in accordance
195 with subsection (p) of section 17-311-52 of the regulations of
196 Connecticut state agencies shall not be applied to real property costs.
197 For the fiscal year ending June 30, 1996, and any succeeding fiscal year,
198 the allowance for real wage growth, as determined in accordance with
199 subsection (q) of section 17-311-52 of the regulations of Connecticut
200 state agencies, shall not be applied. For the fiscal year ending June 30,
201 1996, and any succeeding fiscal year, no rate shall exceed three
202 hundred seventy-five dollars per day unless the commissioner, in
203 consultation with the Commissioner of Developmental Services,
204 determines after a review of program and management costs, that a
205 rate in excess of this amount is necessary for care and treatment of
206 facility residents. For the fiscal year ending June 30, 2002, rate period,
207 the Commissioner of Social Services shall increase the inflation
208 adjustment for rates made in accordance with subsection (p) of section
209 17-311-52 of the regulations of Connecticut state agencies to update
210 allowable fiscal year 2000 costs to include a three and one-half per cent
211 inflation factor. For the fiscal year ending June 30, 2003, rate period, the
212 commissioner shall increase the inflation adjustment for rates made in
213 accordance with subsection (p) of section 17-311-52 of the regulations
214 of Connecticut state agencies to update allowable fiscal year 2001 costs
215 to include a one and one-half per cent inflation factor, except that such
216 increase shall be effective November 1, 2002, and such facility rate in
217 effect for the fiscal year ending June 30, 2002, shall be paid for services
218 provided until October 31, 2002, except any facility that would have
219 been issued a lower rate effective July 1, 2002, than for the fiscal year
220 ending June 30, 2002, due to interim rate status or agreement with the
221 department shall be issued such lower rate effective July 1, 2002, and
222 have such rate updated effective November 1, 2002, in accordance with
223 applicable statutes and regulations. For the fiscal year ending June 30,

224 2004, rates in effect for the period ending June 30, 2003, shall remain in
225 effect, except any facility that would have been issued a lower rate
226 effective July 1, 2003, than for the fiscal year ending June 30, 2003, due
227 to interim rate status or agreement with the department shall be issued
228 such lower rate effective July 1, 2003. For the fiscal year ending June
229 30, 2005, rates in effect for the period ending June 30, 2004, shall
230 remain in effect until September 30, 2004. Effective October 1, 2004,
231 each facility shall receive a rate that is five per cent greater than the
232 rate in effect September 30, 2004. Effective upon receipt of all the
233 necessary federal approvals to secure federal financial participation
234 matching funds associated with the rate increase provided in
235 subdivision (4) of subsection (f) of this section, but in no event earlier
236 than October 1, 2005, and provided the user fee imposed under section
237 17b-320 is required to be collected, each facility shall receive a rate that
238 is four per cent more than the rate the facility received in the prior
239 fiscal year, except any facility that would have been issued a lower rate
240 effective October 1, 2005, than for the fiscal year ending June 30, 2005,
241 due to interim rate status or agreement with the department, shall be
242 issued such lower rate effective October 1, 2005. Such rate increase
243 shall remain in effect unless: [(1)] (A) The federal financial
244 participation matching funds associated with the rate increase are no
245 longer available; or [(2)] (B) the user fee created pursuant to section
246 17b-320 is not in effect. For the fiscal year ending June 30, 2007, rates in
247 effect for the period ending June 30, 2006, shall remain in effect until
248 September 30, 2006, except any facility that would have been issued a
249 lower rate effective July 1, 2006, than for the fiscal year ending June 30,
250 2006, due to interim rate status or agreement with the department,
251 shall be issued such lower rate effective July 1, 2006. Effective October
252 1, 2006, no facility shall receive a rate that is more than three per cent
253 greater than the rate in effect for the facility on September 30, 2006,
254 except any facility that would have been issued a lower rate effective
255 October 1, 2006, due to interim rate status or agreement with the
256 department, shall be issued such lower rate effective October 1, 2006.
257 For the fiscal year ending June 30, 2008, each facility shall receive a rate
258 that is two and nine-tenths per cent greater than the rate in effect for

259 the period ending June 30, 2007, except any facility that would have
260 been issued a lower rate effective July 1, 2007, than for the rate period
261 ending June 30, 2007, due to interim rate status, or agreement with the
262 department, shall be issued such lower rate effective July 1, 2007. For
263 the fiscal year ending June 30, 2009, rates in effect for the period
264 ending June 30, 2008, shall remain in effect until June 30, 2009, except
265 any facility that would have been issued a lower rate for the fiscal year
266 ending June 30, 2009, due to interim rate status or agreement with the
267 department, shall be issued such lower rate. For the fiscal years ending
268 June 30, 2010, and June 30, 2011, rates in effect for the period ending
269 June 30, 2009, shall remain in effect until June 30, 2011, except any
270 facility that would have been issued a lower rate for the fiscal year
271 ending June 30, 2010, or the fiscal year ending June 30, 2011, due to
272 interim rate status or agreement with the department, shall be issued
273 such lower rate. For the fiscal year ending June 30, 2012, rates in effect
274 for the period ending June 30, 2011, shall remain in effect until June 30,
275 2012, except any facility that would have been issued a lower rate for
276 the fiscal year ending June 30, 2012, due to interim rate status or
277 agreement with the department, shall be issued such lower rate. For
278 the fiscal years ending June 30, 2014, and June 30, 2015, rates shall not
279 exceed those in effect for the period ending June 30, 2013, except the
280 rate paid to a facility may be higher than the rate paid to the facility for
281 the period ending June 30, 2013, if a capital improvement approved by
282 the Department of Developmental Services, in consultation with the
283 Department of Social Services, for the health or safety of the residents
284 was made to the facility during the fiscal year ending June 30, 2014, or
285 June 30, 2015, to the extent such rate increases are within available
286 appropriations. Any facility that would have been issued a lower rate
287 for the fiscal year ending June 30, 2014, or the fiscal year ending June
288 30, 2015, due to interim rate status or agreement with the department,
289 shall be issued such lower rate. For the fiscal years ending June 30,
290 2016, and June 30, 2017, rates shall not exceed those in effect for the
291 period ending June 30, 2015, except the rate paid to a facility may be
292 higher than the rate paid to the facility for the period ending June 30,
293 2015, if a capital improvement approved by the Department of

294 Developmental Services, in consultation with the Department of Social
295 Services, for the health or safety of the residents was made to the
296 facility during the fiscal year ending June 30, 2016, or June 30, 2017, to
297 the extent such rate increases are within available appropriations. For
298 the fiscal years ending June 30, 2016, and June 30, 2017, and each
299 succeeding fiscal year, any facility that would have been issued a
300 lower rate, due to interim rate status, a change in allowable fair rent or
301 agreement with the department, shall be issued such lower rate. For
302 the fiscal years ending June 30, 2018, and June 30, 2019, rates shall not
303 exceed those in effect for the period ending June 30, 2017, except the
304 rate paid to a facility may be higher than the rate paid to the facility for
305 the period ending June 30, 2017, if a capital improvement approved by
306 the Department of Developmental Services, in consultation with the
307 Department of Social Services, for the health or safety of the residents
308 was made to the facility during the fiscal year ending June 30, 2018, or
309 June 30, 2019, only to the extent such rate increases are within available
310 appropriations. For the fiscal years ending June 30, 2020, and June 30,
311 2021, rates shall not exceed those in effect for the fiscal year ending
312 June 30, 2019, except the rate paid to a facility may be higher than the
313 rate paid to the facility for the fiscal year ending June 30, 2019, if a
314 capital improvement approved by the Department of Developmental
315 Services, in consultation with the Department of Social Services, for the
316 health or safety of the residents was made to the facility during the
317 fiscal year ending June 30, 2020, or June 30, 2021, only to the extent
318 such rate increases are within available appropriations. For the fiscal
319 year ending June 30, 2022, rates shall not exceed those in effect for the
320 fiscal year ending June 30, 2021, except the commissioner may, in the
321 commissioner's discretion and within available appropriations,
322 provide pro rata fair rent increases to facilities that have documented
323 fair rent additions placed in service in the cost report year ending
324 September 30, 2020, that are not otherwise included in rates issued. For
325 the fiscal year ending June 30, 2023, rates shall not exceed those in
326 effect for the fiscal year ending June 30, 2022, except the commissioner
327 may, in the commissioner's discretion and within available
328 appropriations, provide pro rata fair rent increases to facilities which

329 have documented fair rent additions placed in service in the cost
330 report year ending September 30, 2021, that are not otherwise included
331 in rates issued. For the fiscal years ending June 30, 2022, and June 30,
332 2023, a facility may receive a rate increase for a capital improvement
333 approved by the Department of Developmental Services, in
334 consultation with the Department of Social Services, for the health or
335 safety of the residents during the fiscal year ending June 30, 2022, or
336 June 30, 2023, only to the extent such rate increases are within available
337 appropriations. Any facility that has a significant decrease in land and
338 building costs shall receive a reduced rate to reflect such decrease in
339 land and building costs. For the fiscal years ending June 30, 2012, June
340 30, 2013, June 30, 2014, June 30, 2015, June 30, 2016, June 30, 2017, June
341 30, 2018, June 30, 2019, June 30, 2020, June 30, 2021, June 30, 2022, and
342 June 30, 2023, the Commissioner of Social Services may provide fair
343 rent increases to any facility that has undergone a material change in
344 circumstances related to fair rent and has an approved certificate of
345 need pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355.
346 Notwithstanding the provisions of this section, the Commissioner of
347 Social Services may, within available appropriations, increase or
348 decrease rates issued to intermediate care facilities for individuals with
349 intellectual disabilities to reflect a reduction in available
350 appropriations as provided in subsection (a) of this section. For the
351 fiscal years ending June 30, 2014, and June 30, 2015, the commissioner
352 shall not consider rebasing in determining rates. Notwithstanding the
353 provisions of this subsection, effective July 1, 2021, and July 1, 2022, the
354 commissioner shall, within available appropriations, increase rates for
355 the purpose of wage and benefit enhancements for employees of
356 intermediate care facilities. Facilities that receive a rate adjustment for
357 the purpose of wage and benefit enhancements but do not provide
358 increases in employee salaries as described in this subsection on or
359 before July 31, 2021, and July 31, 2022, respectively, may be subject to a
360 rate decrease in the same amount as the adjustment by the
361 commissioner. There shall be no increase to rates based on inflation or
362 any inflationary factor for the fiscal years ending June 30, 2022, and
363 June 30, 2023. Notwithstanding any other provisions of the general

364 statutes or regulations adopted thereunder, any subsequent increase to
365 rates based on inflation as authorized for any succeeding fiscal year
366 shall be adjusted as determined by the commissioner. The rate of
367 inflation shall be computed based on the percentage increase, if any, in
368 the most recent calendar year average in the gross domestic product
369 deflator over the average for the previous calendar year. Any increase
370 to rates based on inflation shall be applied prior to the application of
371 any other budget adjustment factors that may impact such rates.

372 (2) The Commissioner of Social Services shall determine whether
373 and to what extent a change in ownership of a facility shall occasion
374 the rebasing of the facility's costs. There shall be no inflation
375 adjustment during a year in which a facility's rates are rebased. For the
376 fiscal year ending June 30, 2024, and each subsequent fiscal year, the
377 commissioner may, in the commissioner's discretion and within
378 available appropriations, provide pro rata fair rent increases to
379 facilities which have documented fair rent additions placed in service
380 in the cost report years that are not otherwise included in rates issued.

381 Sec. 3. Subsection (i) of section 17b-340 of the general statutes is
382 repealed and the following is substituted in lieu thereof (*Effective July*
383 *1, 2023*):

384 (i) For the fiscal year ending June 30, 1993, any residential care home
385 with an operating cost component of its rate in excess of one hundred
386 thirty per cent of the median of operating cost components of rates in
387 effect January 1, 1992, shall not receive an operating cost component
388 increase. For the fiscal year ending June 30, 1993, any residential care
389 home with an operating cost component of its rate that is less than one
390 hundred thirty per cent of the median of operating cost components of
391 rates in effect January 1, 1992, shall have an allowance for real wage
392 growth equal to sixty-five per cent of the increase determined in
393 accordance with subsection (q) of section 17-311-52 of the regulations
394 of Connecticut state agencies, provided such operating cost component
395 shall not exceed one hundred thirty per cent of the median of
396 operating cost components in effect January 1, 1992. Beginning with

397 the fiscal year ending June 30, 1993, for the purpose of determining
398 allowable fair rent, a residential care home with allowable fair rent less
399 than the twenty-fifth percentile of the state-wide allowable fair rent
400 shall be reimbursed as having allowable fair rent equal to the twenty-
401 fifth percentile of the state-wide allowable fair rent. Beginning with the
402 fiscal year ending June 30, 1997, a residential care home with allowable
403 fair rent less than three dollars and ten cents per day shall be
404 reimbursed as having allowable fair rent equal to three dollars and ten
405 cents per day. Property additions placed in service during the cost year
406 ending September 30, 1996, or any succeeding cost year shall receive a
407 fair rent allowance for such additions as an addition to three dollars
408 and ten cents per day if the fair rent for the facility for property placed
409 in service prior to September 30, 1995, is less than or equal to three
410 dollars and ten cents per day. Beginning with the fiscal year ending
411 June 30, 2016, a residential care home shall be reimbursed the greater
412 of the allowable accumulated fair rent reimbursement associated with
413 real property additions and land as calculated on a per day basis or
414 three dollars and ten cents per day if the allowable reimbursement
415 associated with real property additions and land is less than three
416 dollars and ten cents per day. For the fiscal year ending June 30, 1996,
417 and any succeeding fiscal year, the allowance for real wage growth, as
418 determined in accordance with subsection (q) of section 17-311-52 of
419 the regulations of Connecticut state agencies, shall not be applied. For
420 the fiscal year ending June 30, 1996, and any succeeding fiscal year, the
421 inflation adjustment made in accordance with subsection (p) of section
422 17-311-52 of the regulations of Connecticut state agencies shall not be
423 applied to real property costs. Beginning with the fiscal year ending
424 June 30, 1997, minimum allowable patient days for rate computation
425 purposes for a residential care home with twenty-five beds or less shall
426 be eighty-five per cent of licensed capacity. Beginning with the fiscal
427 year ending June 30, 2002, for the purposes of determining the
428 allowable salary of an administrator of a residential care home with
429 sixty beds or less the department shall revise the allowable base salary
430 to thirty-seven thousand dollars to be annually inflated thereafter in
431 accordance with section 17-311-52 of the regulations of Connecticut

432 state agencies. The rates for the fiscal year ending June 30, 2002, shall
433 be based upon the increased allowable salary of an administrator,
434 regardless of whether such amount was expended in the 2000 cost
435 report period upon which the rates are based. Beginning with the fiscal
436 year ending June 30, 2000, and until the fiscal year ending June 30,
437 2009, inclusive, the inflation adjustment for rates made in accordance
438 with subsection (p) of section 17-311-52 of the regulations of
439 Connecticut state agencies shall be increased by two per cent, and
440 beginning with the fiscal year ending June 30, 2002, the inflation
441 adjustment for rates made in accordance with subsection (c) of said
442 section shall be increased by one per cent. Beginning with the fiscal
443 year ending June 30, 1999, for the purpose of determining the
444 allowable salary of a related party, the department shall revise the
445 maximum salary to twenty-seven thousand eight hundred fifty-six
446 dollars to be annually inflated thereafter in accordance with section 17-
447 311-52 of the regulations of Connecticut state agencies and beginning
448 with the fiscal year ending June 30, 2001, such allowable salary shall be
449 computed on an hourly basis and the maximum number of hours
450 allowed for a related party other than the proprietor shall be increased
451 from forty hours to forty-eight hours per work week. For the fiscal
452 year ending June 30, 2005, each facility shall receive a rate that is two
453 and one-quarter per cent more than the rate the facility received in the
454 prior fiscal year, except any facility that would have been issued a
455 lower rate effective July 1, 2004, than for the fiscal year ending June 30,
456 2004, due to interim rate status or agreement with the department shall
457 be issued such lower rate effective July 1, 2004. Effective upon receipt
458 of all the necessary federal approvals to secure federal financial
459 participation matching funds associated with the rate increase
460 provided in subdivision (4) of subsection (f) of this section, but in no
461 event earlier than October 1, 2005, and provided the user fee imposed
462 under section 17b-320 is required to be collected, each facility shall
463 receive a rate that is determined in accordance with applicable law and
464 subject to appropriations, except any facility that would have been
465 issued a lower rate effective October 1, 2005, than for the fiscal year
466 ending June 30, 2005, due to interim rate status or agreement with the

467 department, shall be issued such lower rate effective October 1, 2005.
468 Such rate increase shall remain in effect unless: (1) The federal financial
469 participation matching funds associated with the rate increase are no
470 longer available; or (2) the user fee created pursuant to section 17b-320
471 is not in effect. For the fiscal year ending June 30, 2007, rates in effect
472 for the period ending June 30, 2006, shall remain in effect until
473 September 30, 2006, except any facility that would have been issued a
474 lower rate effective July 1, 2006, than for the fiscal year ending June 30,
475 2006, due to interim rate status or agreement with the department,
476 shall be issued such lower rate effective July 1, 2006. Effective October
477 1, 2006, no facility shall receive a rate that is more than four per cent
478 greater than the rate in effect for the facility on September 30, 2006,
479 except for any facility that would have been issued a lower rate
480 effective October 1, 2006, due to interim rate status or agreement with
481 the department, shall be issued such lower rate effective October 1,
482 2006. For the fiscal years ending June 30, 2010, and June 30, 2011, rates
483 in effect for the period ending June 30, 2009, shall remain in effect until
484 June 30, 2011, except any facility that would have been issued a lower
485 rate for the fiscal year ending June 30, 2010, or the fiscal year ending
486 June 30, 2011, due to interim rate status or agreement with the
487 department, shall be issued such lower rate, except (A) any facility that
488 would have been issued a lower rate for the fiscal year ending June 30,
489 2010, or the fiscal year ending June 30, 2011, due to interim rate status
490 or agreement with the Commissioner of Social Services shall be issued
491 such lower rate; and (B) the commissioner may increase a facility's rate
492 for reasonable costs associated with such facility's compliance with the
493 provisions of section 19a-495a concerning the administration of
494 medication by unlicensed personnel. For the fiscal year ending June 30,
495 2012, rates in effect for the period ending June 30, 2011, shall remain in
496 effect until June 30, 2012, except that (i) any facility that would have
497 been issued a lower rate for the fiscal year ending June 30, 2012, due to
498 interim rate status or agreement with the Commissioner of Social
499 Services shall be issued such lower rate; and (ii) the commissioner may
500 increase a facility's rate for reasonable costs associated with such
501 facility's compliance with the provisions of section 19a-495a

502 concerning the administration of medication by unlicensed personnel.
503 For the fiscal year ending June 30, 2013, the Commissioner of Social
504 Services may, within available appropriations, provide a rate increase
505 to a residential care home. Any facility that would have been issued a
506 lower rate for the fiscal year ending June 30, 2013, due to interim rate
507 status or agreement with the Commissioner of Social Services shall be
508 issued such lower rate. For the fiscal years ending June 30, 2012, and
509 June 30, 2013, the Commissioner of Social Services may provide fair
510 rent increases to any facility that has undergone a material change in
511 circumstances related to fair rent and has an approved certificate of
512 need pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355. For the
513 fiscal years ending June 30, 2014, and June 30, 2015, for those facilities
514 that have a calculated rate greater than the rate in effect for the fiscal
515 year ending June 30, 2013, the commissioner may increase facility rates
516 based upon available appropriations up to a stop gain as determined
517 by the commissioner. No facility shall be issued a rate that is lower
518 than the rate in effect on June 30, 2013, except that any facility that
519 would have been issued a lower rate for the fiscal year ending June 30,
520 2014, or the fiscal year ending June 30, 2015, due to interim rate status
521 or agreement with the commissioner, shall be issued such lower rate.
522 For the fiscal year ending June 30, 2014, and each fiscal year thereafter,
523 a residential care home shall receive a rate increase for any capital
524 improvement made during the fiscal year for the health and safety of
525 residents and approved by the Department of Social Services,
526 provided such rate increase is within available appropriations. For the
527 fiscal year ending June 30, 2015, and each succeeding fiscal year
528 thereafter, costs of less than ten thousand dollars that are incurred by a
529 facility and are associated with any land, building or nonmovable
530 equipment repair or improvement that are reported in the cost year
531 used to establish the facility's rate shall not be capitalized for a period
532 of more than five years for rate-setting purposes. For the fiscal year
533 ending June 30, 2015, subject to available appropriations, the
534 commissioner may, at the commissioner's discretion: Increase the
535 inflation cost limitation under subsection (c) of section 17-311-52 of the
536 regulations of Connecticut state agencies, provided such inflation

537 allowance factor does not exceed a maximum of five per cent; establish
538 a minimum rate of return applied to real property of five per cent
539 inclusive of assets placed in service during cost year 2013; waive the
540 standard rate of return under subsection (f) of section 17-311-52 of the
541 regulations of Connecticut state agencies for ownership changes or
542 health and safety improvements that exceed one hundred thousand
543 dollars and that are required under a consent order from the
544 Department of Public Health; and waive the rate of return adjustment
545 under subsection (f) of section 17-311-52 of the regulations of
546 Connecticut state agencies to avoid financial hardship. For the fiscal
547 years ending June 30, 2016, and June 30, 2017, rates shall not exceed
548 those in effect for the period ending June 30, 2015, except the
549 commissioner may, in the commissioner's discretion and within
550 available appropriations, provide pro rata fair rent increases to
551 facilities which have documented fair rent additions placed in service
552 in cost report years ending September 30, 2014, and September 30,
553 2015, that are not otherwise included in rates issued. For the fiscal
554 years ending June 30, 2016, and June 30, 2017, and each succeeding
555 fiscal year, any facility that would have been issued a lower rate, due
556 to interim rate status, a change in allowable fair rent or agreement with
557 the department, shall be issued such lower rate. For the fiscal year
558 ending June 30, 2018, rates shall not exceed those in effect for the
559 period ending June 30, 2017, except the commissioner may, in the
560 commissioner's discretion and within available appropriations,
561 provide pro rata fair rent increases to facilities which have
562 documented fair rent additions placed in service in the cost report year
563 ending September 30, 2016, that are not otherwise included in rates
564 issued. For the fiscal year ending June 30, 2019, rates shall not exceed
565 those in effect for the period ending June 30, 2018, except the
566 commissioner may, in the commissioner's discretion and within
567 available appropriations, provide pro rata fair rent increases to
568 facilities which have documented fair rent additions placed in service
569 in the cost report year ending September 30, 2017, that are not
570 otherwise included in rates issued. For the fiscal year ending June 30,
571 2020, rates shall not exceed those in effect for the fiscal year ending

572 June 30, 2019, except the commissioner may, in the commissioner's
573 discretion and within available appropriations, provide pro rata fair
574 rent increases to facilities which have documented fair rent additions
575 placed in service in the cost report year ending September 30, 2018,
576 that are not otherwise included in rates issued. For the fiscal year
577 ending June 30, 2021, rates shall not exceed those in effect for the fiscal
578 year ending June 30, 2020, except the commissioner may, in the
579 commissioner's discretion and within available appropriations,
580 provide pro rata fair rent increases to facilities which have
581 documented fair rent additions placed in service in the cost report year
582 ending September 30, 2019, that are not otherwise included in rates
583 issued. For the fiscal year ending June 30, 2022, the commissioner may,
584 in the commissioner's discretion and within available appropriations,
585 provide pro rata fair rent increases to facilities that have documented
586 fair rent additions placed in service in the cost report year ending
587 September 30, 2020, that are not otherwise included in rates issued. For
588 the fiscal year ending June 30, 2023, the commissioner may, in the
589 commissioner's discretion and within available appropriations,
590 provide pro rata fair rent increases to facilities which have
591 documented fair rent additions placed in service in the cost report year
592 ending September 30, 2021, that are not otherwise included in rates
593 issued. For the fiscal years ending June 30, 2022, and June 30, 2023, a
594 facility may receive a rate increase for a capital improvement approved
595 by the Department of Social Services, for the health or safety of the
596 residents during the fiscal year ending June 30, 2022, or June 30, 2023,
597 only to the extent such rate increases are within available
598 appropriations. For the fiscal year ending June 30, 2022, and June 30,
599 2023, rates shall be based upon rates in effect for the fiscal year ending
600 June 30, 2021, inflated by the gross domestic product deflator
601 applicable to each rate year, except the commissioner may, in the
602 commissioner's discretion and within available appropriations,
603 provide pro rata fair rent increases to facilities which have
604 documented fair rent additions placed in service in the cost report
605 years ending September 30, 2020, and September 30, 2021, that are not
606 otherwise included in rates issued. Notwithstanding any other

607 provisions of the general statutes or regulations adopted thereunder,
608 any subsequent increase to rates based on inflation as authorized for
609 any succeeding fiscal year shall be adjusted as determined by the
610 commissioner. The rate of inflation shall be computed based on the
611 percentage increase, if any, in the most recent calendar year average in
612 the gross domestic product deflator over the average for the previous
613 calendar year. Any increase to rates based on inflation shall be applied
614 prior to the application of any other budget adjustment factors that
615 may impact such rates. The commissioner shall determine whether
616 and to what extent a change in ownership of a facility shall occasion
617 the rebasing of the facility's costs. There shall be no inflation
618 adjustment during a year in which a facility's rates are rebased.

619 Sec. 4. Subsection (a) of section 17b-340 of the general statutes is
620 repealed and the following is substituted in lieu thereof (*Effective from*
621 *passage*):

622 (a) For purposes of this subsection, (1) a "related party" includes, but
623 is not limited to, any company related to a chronic and convalescent
624 nursing home through family association, common ownership, control
625 or business association with any of the owners, operators or officials of
626 such nursing home; (2) "company" means any person, partnership,
627 association, holding company, limited liability company or
628 corporation; (3) "family association" means a relationship by birth,
629 marriage or domestic partnership; and (4) "profit and loss statement"
630 means the most recent annual statement on profits and losses finalized
631 by a related party before the annual report mandated under this
632 subsection. The rates to be paid by or for persons aided or cared for by
633 the state or any town in this state to licensed chronic and convalescent
634 nursing homes, to chronic disease hospitals associated with chronic
635 and convalescent nursing homes, to rest homes with nursing
636 supervision, to licensed residential care homes, as defined by section
637 19a-490, and to residential facilities for persons with intellectual
638 disability that are licensed pursuant to section 17a-227 and certified to
639 participate in the Title XIX Medicaid program as intermediate care

640 facilities for individuals with intellectual disabilities, for room, board
641 and services specified in licensing regulations issued by the licensing
642 agency shall be determined annually, except as otherwise provided in
643 this subsection by the Commissioner of Social Services, to be effective
644 July first of each year except as otherwise provided in this subsection.
645 Such rates shall be determined on a basis of a reasonable payment for
646 such necessary services, which basis shall take into account as a factor
647 the costs of such services. Cost of such services shall include
648 reasonable costs mandated by collective bargaining agreements with
649 certified collective bargaining agents or other agreements between the
650 employer and employees, provided "employees" shall not include
651 persons employed as managers or chief administrators or required to
652 be licensed as nursing home administrators, and compensation for
653 services rendered by proprietors at prevailing wage rates, as
654 determined by application of principles of accounting as prescribed by
655 said commissioner. Cost of such services shall not include amounts
656 paid by the facilities to employees as salary, or to attorneys or
657 consultants as fees, where the responsibility of the employees,
658 attorneys, or consultants is to persuade or seek to persuade the other
659 employees of the facility to support or oppose unionization. Nothing
660 in this subsection shall prohibit inclusion of amounts paid for legal
661 counsel related to the negotiation of collective bargaining agreements,
662 the settlement of grievances or normal administration of labor
663 relations. The commissioner may, in the commissioner's discretion,
664 allow the inclusion of extraordinary and unanticipated costs of
665 providing services that were incurred to avoid an immediate negative
666 impact on the health and safety of patients. The commissioner may, in
667 the commissioner's discretion, based upon review of a facility's costs,
668 direct care staff to patient ratio and any other related information,
669 revise a facility's rate for any increases or decreases to total licensed
670 capacity of more than ten beds or changes to its number of licensed
671 rest home with nursing supervision beds and chronic and convalescent
672 nursing home beds. The commissioner may, in the commissioner's
673 discretion, revise the rate of a facility that is closing. An interim rate
674 issued for the period during which a facility is closing shall be based

675 on a review of facility costs, the expected duration of the close-down
676 period, the anticipated impact on Medicaid costs, available
677 appropriations and the relationship of the rate requested by the facility
678 to the average Medicaid rate for a close-down period. The
679 commissioner may so revise a facility's rate established for the fiscal
680 year ending June 30, 1993, and thereafter for any bed increases,
681 decreases or changes in licensure effective after October 1, 1989.
682 Effective July 1, 1991, in facilities that have both a chronic and
683 convalescent nursing home and a rest home with nursing supervision,
684 the rate for the rest home with nursing supervision shall not exceed
685 such facility's rate for its chronic and convalescent nursing home. All
686 such facilities for which rates are determined under this subsection
687 shall report on a fiscal year basis ending on September thirtieth. Such
688 report shall be submitted to the commissioner by February fifteenth.
689 Each for-profit chronic and convalescent nursing home that receives
690 state funding pursuant to this section shall include in such annual
691 report a profit and loss statement from each related party that receives
692 from such chronic and convalescent nursing home fifty thousand
693 dollars or more per year for goods, fees and services. No cause of
694 action or liability shall arise against the state, the Department of Social
695 Services, any state official or agent for failure to take action based on
696 the information required to be reported under this subsection. The
697 commissioner may reduce the rate in effect for a facility that fails to
698 submit a complete and accurate report on or before February fifteenth
699 by an amount not to exceed ten per cent of such rate. If a licensed
700 residential care home fails to submit a complete and accurate report,
701 the department shall notify such home of the failure and the home
702 shall have thirty days from the date the notice was issued to submit a
703 complete and accurate report. If a licensed residential care home fails
704 to submit a complete and accurate report not later than thirty days
705 after the date of notice, such home may not receive a retroactive rate
706 increase, in the commissioner's discretion. The commissioner shall,
707 annually, on or before April first, report the data contained in the
708 reports of such facilities on the department's Internet web site. For the
709 cost reporting year commencing October 1, 1985, and for subsequent

710 cost reporting years, facilities shall report the cost of using the services
711 of any nursing personnel supplied by a temporary nursing services
712 agency by separating said cost into two categories, the portion of the
713 cost equal to the salary of the employee for whom the nursing
714 personnel supplied by a temporary nursing services agency is
715 substituting shall be considered a nursing cost and any cost in excess
716 of such salary shall be further divided so that seventy-five per cent of
717 the excess cost shall be considered an administrative or general cost
718 and twenty-five per cent of the excess cost shall be considered a
719 nursing cost, provided if the total costs of a facility for nursing
720 personnel supplied by a temporary nursing services agency in any cost
721 year are equal to or exceed fifteen per cent of the total nursing
722 expenditures of the facility for such cost year, no portion of such costs
723 in excess of fifteen per cent shall be classified as administrative or
724 general costs. The commissioner, in determining such rates, shall also
725 take into account the classification of patients or boarders according to
726 special care requirements or classification of the facility according to
727 such factors as facilities and services and such other factors as the
728 commissioner deems reasonable, including anticipated fluctuations in
729 the cost of providing such services. The commissioner may establish a
730 separate rate for a facility or a portion of a facility for traumatic brain
731 injury patients who require extensive care but not acute general
732 hospital care. Such separate rate shall reflect the special care
733 requirements of such patients. If changes in federal or state laws,
734 regulations or standards adopted subsequent to June 30, 1985, result in
735 increased costs or expenditures in an amount exceeding one-half of
736 one per cent of allowable costs for the most recent cost reporting year,
737 the commissioner shall adjust rates and provide payment for any such
738 increased reasonable costs or expenditures within a reasonable period
739 of time retroactive to the date of enforcement. Nothing in this section
740 shall be construed to require the Department of Social Services to
741 adjust rates and provide payment for any increases in costs resulting
742 from an inspection of a facility by the Department of Public Health.
743 Such assistance as the commissioner requires from other state agencies
744 or departments in determining rates shall be made available to the

745 commissioner at the commissioner's request. Payment of the rates
746 established pursuant to this section shall be conditioned on the
747 establishment by such facilities of admissions procedures that conform
748 with this section, section 19a-533 and all other applicable provisions of
749 the law and the provision of equality of treatment to all persons in
750 such facilities. The established rates shall be the maximum amount
751 chargeable by such facilities for care of such beneficiaries, and the
752 acceptance by or on behalf of any such facility of any additional
753 compensation for care of any such beneficiary from any other person
754 or source shall constitute the offense of aiding a beneficiary to obtain
755 aid to which the beneficiary is not entitled and shall be punishable in
756 the same manner as is provided in subsection (b) of section 17b-97.
757 Notwithstanding any provision of this section, the Commissioner of
758 Social Services may, within available appropriations, provide an
759 interim rate increase for a licensed chronic and convalescent nursing
760 home or a rest home with nursing supervision for rate periods no
761 earlier than April 1, 2004, only if the commissioner determines that the
762 increase is necessary to avoid the filing of a petition for relief under
763 Title 11 of the United States Code; imposition of receivership pursuant
764 to sections 19a-542 and 19a-543; or substantial deterioration of the
765 facility's financial condition that may be expected to adversely affect
766 resident care and the continued operation of the facility, and the
767 commissioner determines that the continued operation of the facility is
768 in the best interest of the state. The commissioner shall consider any
769 requests for interim rate increases on file with the department from
770 March 30, 2004, and those submitted subsequently for rate periods no
771 earlier than April 1, 2004. When reviewing an interim rate increase
772 request the commissioner shall, at a minimum, consider: (A) Existing
773 chronic and convalescent nursing home or rest home with nursing
774 supervision utilization in the area and projected bed need; (B) physical
775 plant long-term viability and the ability of the owner or purchaser to
776 implement any necessary property improvements; (C) licensure and
777 certification compliance history; (D) reasonableness of actual and
778 projected expenses; and (E) the ability of the facility to meet wage and
779 benefit costs. No interim rate shall be increased pursuant to this

780 subsection in excess of one hundred fifteen per cent of the median rate
781 for the facility's peer grouping, established pursuant to [subdivision (2)
782 of subsection (f) of this section] subdivision (3) of subsection (a) of
783 section 17b-340d, as amended by this act, unless recommended by the
784 commissioner and approved by the Secretary of the Office of Policy
785 and Management after consultation with the commissioner. Such
786 median rates shall be published by the Department of Social Services
787 not later than April first of each year. In the event that a facility
788 granted an interim rate increase pursuant to this section is sold or
789 otherwise conveyed for value to an unrelated entity less than five years
790 after the effective date of such rate increase, the rate increase shall be
791 deemed rescinded and the department shall recover an amount equal
792 to the difference between payments made for all affected rate periods
793 and payments that would have been made if the interim rate increase
794 was not granted. The commissioner may seek recovery of such
795 payments from any facility with common ownership. With the
796 approval of the Secretary of the Office of Policy and Management, the
797 commissioner may waive recovery and rescission of the interim rate
798 for good cause shown that is not inconsistent with this section,
799 including, but not limited to, transfers to family members that were
800 made for no value. The commissioner shall provide written quarterly
801 reports to the joint standing committees of the General Assembly
802 having cognizance of matters relating to aging, human services and
803 appropriations and the budgets of state agencies, that identify each
804 facility requesting an interim rate increase, the amount of the
805 requested rate increase for each facility, the action taken by the
806 commissioner and the secretary pursuant to this subsection, and
807 estimates of the additional cost to the state for each approved interim
808 rate increase. Nothing in this subsection shall prohibit the
809 commissioner from increasing the rate of a licensed chronic and
810 convalescent nursing home or a rest home with nursing supervision
811 for allowable costs associated with facility capital improvements or
812 increasing the rate in case of a sale of a licensed chronic and
813 convalescent nursing home or a rest home with nursing supervision if
814 receivership has been imposed on such home. For purposes of this

815 section, "temporary nursing services agency" and "nursing personnel"
816 have the same meaning as provided in section 19a-118.

817 Sec. 5. Subsection (a) of section 17b-340d of the general statutes is
818 repealed and the following is substituted in lieu thereof (*Effective from*
819 *passage*):

820 (a) The Commissioner of Social Services shall implement an acuity-
821 based methodology for Medicaid reimbursement of nursing home
822 services effective July 1, 2022. Notwithstanding section 17b-340, as
823 amended by this act, for the fiscal year ending June 30, 2023, and
824 annually thereafter, the Commissioner of Social Services shall establish
825 Medicaid rates paid to nursing home facilities based on cost years
826 ending on September thirtieth in accordance with the following:

827 (1) Case-mix adjustments to the direct care component, which will
828 be based on Minimum Data Set resident assessment data as well as
829 cost data reported for the cost year ending September 30, 2019, shall be
830 made effective beginning July 1, 2022, and updated every quarter
831 thereafter. After modeling such case-mix adjustments, the
832 Commissioner of Social Services shall evaluate impact on a facility by
833 facility basis and, not later than October 1, 2021, (A) make
834 recommendations to the Secretary of the Office of Policy and
835 Management, and (B) submit a report on the recommendations, in
836 accordance with the provisions of section 11-4a, to the joint standing
837 committees of the General Assembly having cognizance of matters
838 relating to appropriations and the budgets of state agencies and
839 human services on any adjustments needed to facilitate the transition
840 to the new methodology on July 1, 2022. This evaluation may include a
841 review of inflationary allowances, case mix and budget adjustment
842 factors and stop loss and stop gain corridors and the ability to make
843 such adjustments within available appropriations.

844 (2) Beginning July 1, 2022, facilities will be required to comply with
845 collection and reporting of quality metrics as specified by the
846 Department of Social Services, after consultation with the nursing

847 home industry, consumers, employees and the Department of Public
848 Health. Rate adjustments based on performance on quality metrics will
849 be phased in, beginning July 1, 2022, with a period of reporting only.

850 (3) Geographic peer groupings of facilities shall be established by
851 the Department of Social Services pursuant to regulations adopted in
852 accordance with subsection (b) of this section.

853 (4) Allowable costs shall be divided into the following five cost
854 components: (A) Direct costs, which shall include salaries for nursing
855 personnel, related fringe benefits and costs for nursing personnel
856 supplied by a temporary nursing services agency; (B) indirect costs,
857 which shall include professional fees, dietary expenses, housekeeping
858 expenses, laundry expenses, supplies related to patient care, salaries
859 for indirect care personnel and related fringe benefits; (C) fair rent,
860 which shall be defined in regulations adopted in accordance with
861 subsection (b) of this section; (D) capital-related costs, which shall
862 include property taxes, insurance expenses, equipment leases and
863 equipment depreciation; and (E) administrative and general costs,
864 which shall include maintenance and operation of plant expenses,
865 salaries for administrative and maintenance personnel and related
866 fringe benefits. For (i) direct costs, the maximum cost shall be equal to
867 one hundred thirty-five per cent of the median allowable cost of that
868 peer grouping; (ii) indirect costs, the maximum cost shall be equal to
869 one hundred fifteen per cent of the state-wide median allowable cost;
870 (iii) fair rent, the amount shall be calculated utilizing the amount
871 approved pursuant to section 17b-353; (iv) capital-related costs, there
872 shall be no maximum; and (v) administrative and general costs, the
873 maximum shall be equal to the state-wide median allowable cost. For
874 purposes of this subdivision, "temporary nursing services agency" and
875 "nursing personnel" have the same meaning as provided in section
876 19a-118.

877 (5) Costs in excess of the maximum amounts established under this
878 subsection shall not be recognized as allowable costs, except that the
879 commissioner may establish rates whereby allowable costs may exceed

880 such maximum amounts for beds which are restricted to use by
881 patients with acquired immune deficiency syndrome, traumatic brain
882 injury or other specialized services.

883 [(5) For the fiscal year ending] (6) On or after June 30, 2022, the
884 commissioner may, in the commissioner's discretion and within
885 available appropriations, provide pro rata fair rent increases to
886 facilities which have documented fair rent additions placed in service
887 in the most recently filed cost report [year ending September 30, 2020,]
888 that are not otherwise included in the rates issued.

889 (7) For the purpose of determining allowable fair rent, a facility with
890 allowable fair rent less than the twenty-fifth percentile of the state-
891 wide allowable fair rent shall be reimbursed as having allowable fair
892 rent equal to the twenty-fifth percentile of the state-wide allowable fair
893 rent. Any facility with a rate of return on real property other than land
894 in excess of eleven per cent shall have such allowance revised to eleven
895 per cent. Any facility or its related realty affiliate which finances or
896 refinances debt through bonds issued by the Connecticut Health and
897 Education Facilities Authority shall report the terms and conditions of
898 such financing or refinancing to the Commissioner of Social Services
899 not later than thirty days after completing such financing or
900 refinancing. The commissioner may revise the facility's fair rent
901 component of its rate to reflect any financial benefit the facility or its
902 related realty affiliate received as a result of such financing or
903 refinancing. The commissioner shall determine allowable fair rent for
904 real property other than land based on the rate of return for the cost
905 year in which such bonds were issued. The financial benefit resulting
906 from a facility financing or refinancing debt through such bonds shall
907 be shared between the state and the facility to an extent determined by
908 the commissioner on a case-by-case basis and shall be reflected in an
909 adjustment to the facility's allowable fair rent.

910 (8) A facility shall receive cost efficiency adjustments for indirect
911 costs and for administrative and general costs if such costs are below
912 the state-wide median costs. The cost efficiency adjustments shall

913 equal twenty-five per cent of the difference between allowable
914 reported costs and the applicable median allowable cost established
915 pursuant to subdivision (4) of this subsection.

916 (9) On and after July 1, 2025, costs shall be rebased no more
917 frequently than every two years and no less frequently than every four
918 years, as determined by the commissioner. There shall be no inflation
919 adjustment during a year in which a facility's rates are rebased. The
920 commissioner shall determine whether and to what extent a change in
921 ownership of a facility shall occasion the rebasing of the facility's costs.

922 (10) The method of establishing rates for new facilities shall be
923 determined by the commissioner in accordance with the provisions of
924 this subsection.

925 ~~[(6)]~~ (11) There shall be no increase to rates based on inflation or any
926 inflationary factor for the fiscal years ending June 30, 2022, and June
927 30, 2023, unless otherwise authorized under subdivision (1) of this
928 subsection. Notwithstanding any other provisions of the general
929 statutes or regulations adopted thereunder, any subsequent increase to
930 rates based on inflation as authorized for any succeeding fiscal year
931 shall be adjusted as determined by the commissioner. The rate of
932 inflation shall be computed based on the percentage increase, if any, in
933 the most recent calendar year average in the gross domestic product
934 deflator over the average for the previous calendar year. Any increase
935 to rates based on inflation shall be applied prior to the application of
936 any other budget adjustment factors that may impact such rates.

937 ~~[(7)]~~ (12) For purposes of computing minimum allowable patient
938 days, utilization of a facility's certified beds shall be determined at a
939 minimum of ninety per cent of capacity, except for facilities that have
940 undergone a change in ownership, new facilities, and facilities which
941 are certified for additional beds which may be permitted a lower
942 occupancy rate for the first three months of operation after the effective
943 date of licensure.

