



General Assembly

Amendment

January Session, 2023

LCO No. 8644



Offered by:

REP. MCCARTHY VAHEY, 133rd Dist.

To: House Bill No. 6731

File No. 474

Cal. No. 300

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 19a-493 of the general statutes is repealed and the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

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

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

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

48 (c) (1) (A) For the purposes of this subsection, (i) "a person related by

49 blood or marriage" means a parent, spouse, child, brother, sister, aunt,
50 uncle, niece or nephew, (ii) "business entity" means a corporation,
51 association, trust, estate, partnership, limited partnership, limited
52 liability partnership, limited liability company, sole proprietorship, joint
53 stock company, nonstock corporation or other legal entity, (iii)
54 "institution" has the same meaning as provided in section 19a-490, and
55 (iv) "organizational chart" means a graphical representation of an
56 organization, including, but not limited to, the relationships between
57 such organization's ownership interests.

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

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

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

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

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

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

103 (iv) A determination that the provider is a "poor performer" as
104 defined by the Centers for Medicare and Medicaid Services on the basis
105 of a finding of substandard quality of care or immediate jeopardy, as
106 described in 42 CFR 488, on the current survey and on a survey during
107 one of the two preceding years. For the purposes of this subparagraph,
108 "substandard quality of care" means the failure to meet one or more
109 requirements of 42 CFR 483.13, 42 CFR 483.15 or 42 CFR 483.25, that
110 constitute either immediate jeopardy to resident health or safety, a
111 pattern of or widespread actual harm that is not immediate jeopardy or
112 a widespread potential for more than minimal harm, but less than
113 immediate jeopardy, with no actual harm; or

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

119 (2) Any change in the ownership or beneficial ownership of a facility
120 or institution [, as defined in section 19a-490,] owned by an individual [,
121 partnership or association or the change in ownership or beneficial
122 ownership of ten per cent or more of the stock of a corporation which]
123 or a business entity that owns, conducts, operates or maintains such
124 facility or institution, including a change in ownership or beneficial
125 ownership resulting in a transfer to a person related by blood or
126 marriage to an owner or a beneficial owner, shall be subject to prior
127 approval of the department, [after a scheduled inspection of such facility
128 or institution is conducted by the department,] provided such approval
129 shall be conditioned upon a showing by such facility or institution to the
130 commissioner that it has complied with all requirements of this chapter,
131 the regulations relating to licensure and all applicable requirements of
132 the regulations of Connecticut state agencies [. Any such change in
133 ownership or beneficial ownership resulting in a transfer to a person
134 related by blood or marriage to such an owner or beneficial owner shall
135 not be subject to prior approval of the department unless: (A)
136 Ownership or beneficial ownership of ten per cent or more of the stock
137 of a corporation, limited liability company, partnership or association
138 which owns, conducts, operates or maintains more than one facility or
139 institution is transferred; (B) ownership or beneficial ownership is
140 transferred in more than one facility or institution; or (C) the facility or
141 institution is the subject of a pending complaint, investigation or
142 licensure action. If the facility or institution is not in compliance, the
143 commissioner may require the new owner to sign a consent order
144 providing reasonable assurances that the violations shall be corrected
145 within a specified period of time. Notice of any such proposed change
146 of ownership shall be given to the department at least one hundred
147 twenty days prior to the effective date of such proposed change. For the

148 purposes of this subdivision, "a person related by blood or marriage"
149 means a parent, spouse, child, brother, sister, aunt, uncle, niece or
150 nephew. For the purposes of this subdivision, a change in the legal form
151 of the ownership entity, including, but not limited to, changes from a
152 corporation to a limited liability company, a partnership to a limited
153 liability partnership, a sole proprietorship to a corporation and similar
154 changes, shall not be considered a change of ownership if the beneficial
155 ownership remains unchanged and the owner provides such
156 information regarding the change to the department as may be required
157 by the department in order to properly identify the current status of
158 ownership and beneficial ownership of the facility or institution. For the
159 purposes of this subdivision, a public offering of the stock of any
160 corporation that owns, conducts, operates or maintains any such facility
161 or institution shall not be considered a change in ownership or beneficial
162 ownership of such facility or institution if the licensee and the officers
163 and directors of such corporation remain unchanged, such public
164 offering cannot result in an individual or entity owning ten per cent or
165 more of the stock of such corporation, and the owner provides such
166 information to the department as may be required by the department in
167 order to properly identify the current status of ownership and beneficial
168 ownership of the facility or institution.] and the change of ownership or
169 beneficial ownership meets the requirements of subdivision (5) of
170 subsection (c) of this section.

171 (3) Not later than one hundred twenty days before the proposed date
172 of a change in ownership or beneficial ownership of a facility or
173 institution, the proposed new owner, or in the case of a change in
174 beneficial ownership, the current owner, of such facility or institution
175 shall submit an application for approval to the department. Such
176 application shall be in a form and manner prescribed by the
177 commissioner and shall include, but need not be limited to, the
178 following:

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

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

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

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

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

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

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

201 (i) Disclosure of any direct or indirect interests, including such
202 interests in intermediate entities and parent, management and property
203 companies and other related entities arising from such ownership,
204 operation or management;

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

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

210 (I) Three or more civil penalties imposed through final order of the

211 commissioner in accordance with the provisions of sections 19a-524 to
212 19a-528, inclusive, or civil penalties imposed pursuant to the laws or
213 regulations of another state during the two-year period preceding the
214 date on which such application is submitted;

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

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

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

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

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

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

236 (5) When evaluating an application for a change in ownership, the
237 commissioner shall consider whether each proposed new owner and
238 beneficial owner demonstrates character and competence, quality of
239 care and whether an acceptable history of past and current compliance
240 with state licensure requirements, applicable federal requirements and

241 state regulatory requirements exists for each licensed health care facility
242 owned, operated or managed by each proposed new owner and
243 beneficial owner in the United States or any territory of the United States
244 during the five years preceding the date on which such application is
245 submitted. The commissioner may deny an application for change in
246 ownership if such qualities are not demonstrated, as evidenced by:

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

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

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

256 (6) Notwithstanding the provisions of subdivision (5) of this
257 subsection, the commissioner may stay the determination of an
258 application if the commissioner determines that there is a pending
259 investigation of actions of the applicant at any facility operated or
260 managed by the applicant that, if substantiated, would constitute a
261 threat to the life, safety or quality of care of the patients or residents until
262 such time as there is a final determination of the allegations underlying
263 the investigation.

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

267 (8) In the event of a change in ownership or beneficial ownership
268 resulting in a transfer to a person related by blood or marriage to an
269 owner or beneficial owner, the commissioner may waive the submission
270 of information required pursuant to the provisions of subparagraph (G)
271 of subdivision (3) of this subsection. In the event of a change in

272 ownership or beneficial ownership of five per cent or less of the
273 ownership of a business entity that is a licensed institution, the
274 commissioner may waive the submission of some or all of the
275 information required pursuant to the provisions of subdivision (3) of
276 this subsection or the determination required pursuant to subdivision
277 (5) of this subsection. The commissioner shall develop an application
278 process through which a person may request a waiver described in this
279 subdivision and criteria to be used by the commissioner when
280 evaluating such a request. The commissioner shall consult with
281 representatives of the long-term care industry when developing such
282 application process and criteria.

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

290 ~~[(c)]~~ (d) (1) A multicare institution may, under the terms of its existing
291 license, provide behavioral health services or substance use disorder
292 treatment services on the premises of more than one facility, at a satellite
293 unit or at another location outside of its facilities or satellite units that is
294 acceptable to the patient receiving services and is consistent with the
295 patient's assessment and treatment plan. Such behavioral health
296 services or substance use disorder treatment services may include
297 methadone delivery and related substance use treatment services to
298 persons in a nursing home facility pursuant to the provisions of section
299 19a-495c or in a mobile narcotic treatment program, as defined in 21 CFR
300 1300.

301 (2) Any multicare institution that intends to offer services at a satellite
302 unit or other location outside of its facilities or satellite units shall submit
303 an application for approval to offer services at such location to the
304 Department of Public Health. Such application shall be submitted on a

305 form and in the manner prescribed by the Commissioner of Public
306 Health. Not later than forty-five days after receipt of such application,
307 the commissioner shall notify the multicare institution of the approval
308 or denial of such application. If the satellite unit or other location is
309 approved, that satellite unit or location shall be deemed to be licensed
310 in accordance with this section and shall comply with the applicable
311 requirements of this chapter and regulations adopted under this
312 chapter.

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

317 (4) The Commissioner of Public Health may adopt regulations, in
318 accordance with the provisions of chapter 54, to carry out the provisions
319 of this subsection. The Commissioner of Public Health may implement
320 policies and procedures necessary to administer the provisions of this
321 subsection while in the process of adopting such policies and
322 procedures as regulation, provided the commissioner prints notice of
323 intent to adopt regulations in the Connecticut Law Journal not later than
324 twenty days after the date of implementation. Policies and procedures
325 implemented pursuant to this section shall be valid until the time final
326 regulations are adopted.

327 Sec. 2. Subsection (a) of section 19a-491a of the general statutes is
328 repealed and the following is substituted in lieu thereof (*Effective October*
329 *1, 2023*):

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

333 (1) (A) The name and business address of the owner and a statement
334 of whether the owner is an individual, partnership, corporation or other
335 legal entity; (B) the names of the officers, directors, trustees, or
336 managing and general partners of the owner, the names of persons

337 having a [ten] five per cent or greater ownership interest in the owner,
338 and a description of each such person's occupation with the owner; and
339 (C) if the owner is a corporation which is incorporated in another state,
340 a certificate of good standing from the secretary of state of the state of
341 incorporation;

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

345 (3) Affidavits signed by the owner, any of the persons described in
346 subdivision (1) of this subsection, the administrator, assistant
347 administrator, the medical director, the director of nursing and assistant
348 director of nursing disclosing any matter in which such person has been
349 convicted of a felony, as defined in section 53a-25, or has pleaded nolo
350 contendere to a felony charge, or has been held liable or enjoined in a
351 civil action by final judgment, if the felony or civil action involved fraud,
352 embezzlement, fraudulent conversion or misappropriation of property;
353 or is subject to an injunction or restrictive or remedial order of a court of
354 record at the time of application, within the past five years has had any
355 state or federal license or permit suspended or revoked as a result of an
356 action brought by a governmental agency or department, arising out of
357 or relating to health care business activity, including, but not limited to,
358 actions affecting the operation of a nursing home, retirement home,
359 residential care home or any facility subject to sections 17b-520 to 17b-
360 535, inclusive, or a similar statute in another state or country;

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

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

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

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

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

382 Sec. 3. Subsection (a) of section 19a-528a of the general statutes is
383 repealed and the following is substituted in lieu thereof (*Effective October*
384 *1, 2023*):

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

401 resident of the nursing home perpetrated by an employee of the nursing
402 home."."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	19a-493
Sec. 2	<i>October 1, 2023</i>	19a-491a(a)
Sec. 3	<i>October 1, 2023</i>	19a-528a(a)