



House of Representatives

File No. 845

General Assembly

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(Reprint of File No. 52)

House Bill No. 5781
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 1, 2023

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

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

1 Section 1. Subsection (c) of section 19a-535 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (c) (1) Before effecting any transfer or discharge of a resident from the
5 facility, the facility shall notify, in writing, the resident and the resident's
6 guardian or conservator, if any, or legally liable relative or other
7 responsible party if known, of the proposed transfer or discharge, the
8 reasons therefor, the effective date of the proposed transfer or discharge,
9 the location to which the resident is to be transferred or discharged, the
10 right to appeal the proposed transfer or discharge and the procedures
11 for initiating such an appeal as determined by the Department of Social

12 Services, the date by which an appeal must be initiated in order to
13 preserve the resident's right to an appeal hearing and the date by which
14 an appeal must be initiated in order to stay the proposed transfer or
15 discharge and the possibility of an exception to the date by which an
16 appeal must be initiated in order to stay the proposed transfer or
17 discharge for good cause, that the resident may represent himself or
18 herself or be represented by legal counsel, a relative, a friend or other
19 spokesperson, an affirmation by the facility that notice of the proposed
20 transfer or discharge has been provided to the State Long-Term Care
21 Ombudsman, in accordance with the provisions of subdivision (3) of
22 this subsection, and information as to bed hold and nursing home
23 readmission policy when required in accordance with section 19a-537.
24 The notice shall also include the name, mailing address and telephone
25 number of the State Long-Term Care Ombudsman. If the resident is, or
26 the facility alleges a resident is, mentally ill or developmentally
27 disabled, the notice shall include the name, mailing address and
28 telephone number of the nonprofit entity designated by the Governor in
29 accordance with section 46a-10b to serve as the Connecticut protection
30 and advocacy system. The notice shall be given at least thirty days and
31 no more than sixty days prior to the resident's proposed transfer or
32 discharge, except where the health or safety of individuals in the facility
33 are endangered, or where the resident's health improves sufficiently to
34 allow a more immediate transfer or discharge, or where immediate
35 transfer or discharge is necessitated by urgent medical needs or where
36 a resident has not resided in the facility for thirty days, in which cases
37 notice shall be given as many days before the transfer or discharge as
38 practicable.

39 (2) The resident may initiate an appeal pursuant to this section by
40 submitting a written request to the Commissioner of Social Services not
41 later than sixty calendar days after the facility issues the notice of the
42 proposed transfer or discharge, except as provided in subsection (h) of
43 this section. In order to stay a proposed transfer or discharge, the
44 resident must initiate an appeal not later than twenty days after the date
45 the resident receives the notice of the proposed transfer or discharge

46 from the facility unless the resident demonstrates good cause for failing
47 to initiate such appeal within the twenty-day period.

48 (3) On the date that the facility provides notice of a proposed
49 involuntary transfer or discharge of a resident pursuant to the
50 provisions of subdivision (1) of this subsection, the facility shall notify
51 the State Ombudsman, appointed pursuant to section 17a-870, in a
52 manner prescribed by the State Ombudsman, of such proposed
53 involuntary transfer or discharge. Failure to provide notice to the State
54 Ombudsman pursuant to the provisions of this subdivision shall
55 invalidate any notice of the proposed involuntary transfer or discharge
56 of a resident submitted pursuant to the provisions of subdivision (1) of
57 this subsection.

58 Sec. 2. Subsection (a) of section 17a-878 of the general statutes is
59 repealed and the following is substituted in lieu thereof (*Effective from*
60 *passage*):

61 (a) The State Ombudsman and representatives of the office shall have:

62 (1) Access to long-term care facilities and residents;

63 (2) Appropriate access to review the medical and social records of a
64 resident, including, but not limited to, the discharge plan developed
65 pursuant to subsection (e) of section 19a-535, if (A) the representative of
66 the office has the permission of the resident, or the legal representative
67 of the resident, (B) the resident is unable to consent to the review and
68 has no legal representative, or (C) access to the records is necessary to
69 investigate a complaint and a resident representative refuses to give
70 permission, a representative of the office has reasonable cause to believe
71 that the resident representative is not acting in the best interests of the
72 resident, and the representative of the office obtains the approval of the
73 ombudsman;

74 (3) Access to the administrative records, policies and documents, to
75 which the residents have, or the general public has access, of long-term
76 care facilities; and

77 (4) Access to and, on request, copies of all licensing and certification
78 records maintained by the state with respect to long-term care facilities.

79 Sec. 3. Subsection (k) of section 19a-535 of the general statutes is
80 repealed and the following is substituted in lieu thereof (*Effective from*
81 *passage*):

82 (k) [A] Except as otherwise provided pursuant to subdivision (3) of
83 subsection (c) of this section, a facility shall electronically report each
84 involuntary transfer or discharge to the State Ombudsman, appointed
85 pursuant to section [17a-405] 17a-870, (1) in a manner prescribed by the
86 State Ombudsman, and (2) on an Internet web site portal maintained by
87 the State Ombudsman in accordance with patient privacy provisions of
88 the Health Insurance Portability and Accountability Act of 1996, P.L.
89 104-191, as amended from time to time.

90 Sec. 4. Section 19a-693 of the general statutes is repealed and the
91 following is substituted in lieu thereof (*Effective October 1, 2023*):

92 As used in this section and sections 19a-694 to 19a-701, inclusive, as
93 amended by this act:

94 (1) "Activities of daily living" means activities or tasks that are
95 essential for a person's healthful and safe existence, including, but not
96 limited to, bathing, dressing, grooming, eating, meal preparation,
97 shopping, housekeeping, transfers, bowel and bladder care, laundry,
98 communication, self-administration of medication and ambulation.

99 (2) "Assisted living services" means nursing services and assistance
100 with activities of daily living provided to residents living within (A) a
101 managed residential community having supportive services that
102 encourage persons primarily fifty-five years of age or older to maintain
103 a maximum level of independence, or (B) an elderly housing complex
104 receiving assistance and funding through the United States Department
105 of Housing and Urban Development's Assisted Living Conversion
106 Program.

107 (3) "Assisted living services agency" means an entity, licensed by the
108 Department of Public Health pursuant to chapter 368v that provides,
109 among other things, nursing services and assistance with activities of
110 daily living to a population that is chronic and stable.

111 (4) "Managed residential community" means a for-profit or not-for-
112 profit facility consisting of private residential units that provides a
113 managed group living environment consisting of housing and services
114 for persons who are primarily fifty-five years of age or older. "Managed
115 residential community" does not include any state-funded congregate
116 housing facilities.

117 (5) "Department" means the Department of Public Health.

118 (6) "Family council" means an independent, self-determining group
119 of family members and friends who (A) advocate for the needs and
120 interests of the residents of a managed residential community that offers
121 assisted living services, and (B) facilitate open communication between
122 the managed residential community administration, the residents and
123 family and friends of the residents.

124 ~~[(6)]~~ (7) "Private residential unit" means a private living environment
125 designed for use and occupancy by a resident within a managed
126 residential community that includes a full bathroom and access to
127 facilities and equipment for the preparation and storage of food.

128 ~~[(7)]~~ (8) "Resident" means a person residing in a private residential
129 unit of a managed residential community pursuant to the terms of a
130 written agreement for occupancy of such unit.

131 Sec. 5. Section 19a-694 of the general statutes is repealed and the
132 following is substituted in lieu thereof (*Effective October 1, 2023*):

133 (a) All managed residential communities operating in the state shall:

134 (1) Provide a written residency agreement to each resident in
135 accordance with section 19a-700;

136 (2) Afford residents the ability to access services provided by an
137 assisted living services agency. Such services shall be provided in
138 accordance with a service plan developed in accordance with section
139 19a-699;

140 (3) Upon the request of a resident, arrange, in conjunction with the
141 assisted living services agency, for the provision of ancillary medical
142 services on behalf of a resident, including physician and dental services,
143 pharmacy services, restorative physical therapies, podiatry services,
144 hospice care and home health agency services, provided the ancillary
145 medical services are not administered by employees of the managed
146 residential community, unless the resident chooses to receive such
147 services;

148 (4) Provide a formally established security program for the protection
149 and safety of residents that is designed to protect residents from
150 intruders;

151 (5) Afford residents the rights and privileges guaranteed under title
152 47a;

153 (6) Comply with the provisions of subsection (c) of section 19-13-D105
154 of the regulations of Connecticut state agencies; [and]

155 (7) Assist a resident who has a long-term care insurance policy with
156 preparing and submitting claims for benefits to the insurer, provided
157 such resident has executed a written authorization requesting and
158 directing the insurer to (A) disclose information to the managed
159 residential community relevant to such resident's eligibility for an
160 insurance benefit or payment, and (B) provide a copy of the acceptance
161 or declination of a claim for benefits to the managed residential
162 community at the same time such acceptance or declination is made to
163 such resident; and

164 (8) On or before January 1, 2024, encourage and assist in the
165 establishment of a family council in managed residential communities
166 offering assisted living services. Such family council shall not allow a

167 family member or friend of a resident who is not a resident of a dementia
168 special care unit to participate in the family council without the consent
169 of such resident.

170 (b) No managed residential community shall control or manage the
171 financial affairs or personal property of any resident, except as provided
172 for in subdivision (7) of subsection (a) of this section.

173 Sec. 6. (NEW) (*Effective October 1, 2023*) There shall be within the
174 Department of Aging and Disability Services a dementia services
175 coordinator. The dementia services coordinator shall (1) coordinate
176 dementia services across state agencies, (2) assess and analyze
177 dementia-related data collected by the state, (3) evaluate state-funded
178 dementia services, (4) identify and support the development of
179 dementia-specific training programs, and (5) perform any other relevant
180 duties to support individuals with dementia in the state, as determined
181 by the Commissioner of Aging and Disability Services.

182 Sec. 7. (NEW) (*Effective July 1, 2023*) (a) Beginning with the cost report
183 year ending on September 30, 2023, and annually thereafter, each
184 nursing home facility, as defined in section 19a-490 of the general
185 statutes, shall submit to the Commissioner of Social Services narrative
186 summaries of expenditures in addition to the cost reports required
187 pursuant to section 17b-340 of the general statutes, as amended by this
188 act. The summaries shall include profit and loss statements for the
189 preceding three cost report years, total revenue, total expenditures, total
190 assets, total liabilities, short-term debt, long-term debt and cash flows
191 from investing, operating and financing activities. The Commissioner of
192 Social Services shall develop a uniform narrative summary form to be
193 used by nursing home facilities for the purposes of complying with the
194 provisions of this subsection and post such form on the department's
195 Internet web site.

196 (b) Not later than January 1, 2024, and annually thereafter, the
197 Commissioner of Social Services shall post in a conspicuous area on the
198 Internet web site of the Department of Social Services a link to the

199 annual cost reports and the summaries provided by each nursing home
200 facility.

201 (c) Any nursing home facility that violates or fails to comply with the
202 provisions of this section shall be fined not more than ten thousand
203 dollars for each incident of noncompliance. Prior to imposing any
204 penalty pursuant to this subsection, the commissioner shall notify the
205 nursing home facility of the alleged violation and the accompanying
206 penalty and shall permit such facility to request that the department
207 review its findings. A facility shall request such review not later than
208 fifteen days after receipt of the notice of violation from the department.
209 The department shall stay the imposition of any penalty pending the
210 outcome of the review. The commissioner may impose a penalty upon
211 a facility pursuant to this subsection regardless of whether a change in
212 ownership of the facility has taken place since the time of the violation,
213 provided the department issued notice of the alleged violation and the
214 accompanying penalty prior to the effective date of the change in
215 ownership and record of such notice is readily available in a central
216 registry maintained by the department. Payments of fines received
217 pursuant to this subsection shall be deposited in the General Fund and
218 credited to the Medicaid account.

219 Sec. 8. Section 19a-491a of the general statutes is repealed and the
220 following is substituted in lieu thereof (*Effective July 1, 2023*):

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

224 (1) (A) The name and business address of the owner and a statement
225 of whether the owner is an individual, partnership, corporation or other
226 legal entity; (B) the names of the officers, directors, trustees, or
227 managing and general partners of the owner, the names of persons
228 having a ten per cent or greater ownership interest in the owner, and a
229 description of each such person's occupation with the owner; [and] (C)
230 if the owner is a corporation which is incorporated in another state, a

231 certificate of good standing from the secretary of state of the state of
232 incorporation; and (D) if a private equity company or real estate
233 investment trust owns any portion of the business, any information
234 regarding such company or trust required to be disclosed (i) on federal
235 Form CMS-855a, and (ii) in accordance with 42 CFR 424.516 or 42 CFR
236 455.104, as amended from time to time;

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

240 (3) Affidavits signed by the owner, any of the persons described in
241 subdivision (1) of this subsection, the administrator, assistant
242 administrator, the medical director, the director of nursing and assistant
243 director of nursing disclosing any matter in which such person has been
244 convicted of a felony, as defined in section 53a-25, or has pleaded nolo
245 contendere to a felony charge, or has been held liable or enjoined in a
246 civil action by final judgment, if the felony or civil action involved fraud,
247 embezzlement, fraudulent conversion or misappropriation of property;
248 or is subject to an injunction or restrictive or remedial order of a court of
249 record at the time of application, within the past five years has had any
250 state or federal license or permit suspended or revoked as a result of an
251 action brought by a governmental agency or department, arising out of
252 or relating to health care business activity, including, but not limited to,
253 actions affecting the operation of a nursing home, retirement home,
254 residential care home or any facility subject to sections 17b-520 to 17b-
255 535, inclusive, or a similar statute in another state or country;

256 (4) (A) A statement as to whether or not the owner is, or is affiliated
257 with, a religious, charitable or other nonprofit organization; (B) the
258 extent of the affiliation, if any; (C) the extent to which the affiliate
259 organization will be responsible for the financial obligations of the
260 owner; and (D) the provision of the Internal Revenue Code of 1986, or
261 any subsequent corresponding internal revenue code of the United
262 States, as from time to time amended, if any, under which the owner or
263 affiliate is exempt from the payment of income tax;

264 (5) The location and a description of other health care facilities of the
265 owner, existing or proposed, and, if proposed, the estimated completion
266 date or dates and whether or not construction has begun; [and]

267 (6) Audited and certified financial statements of the owner, including
268 (A) a balance sheet as of the end of the most recent fiscal year, and (B)
269 income statements for the most recent fiscal year of the owner or such
270 shorter period of time as the owner shall have been in existence; and

271 ~~[(6)]~~ (7) If the operation of the nursing home has not yet commenced,
272 a statement of the anticipated source and application of the funds used
273 or to be used in the purchase or construction of the home, including:

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

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

281 (b) In addition to the information provided pursuant to subsection (a)
282 of this section, the commissioner may reasonably require an applicant
283 for a nursing home license or renewal of a nursing home license to
284 submit additional information. Such information may include audited
285 and certified financial statements of the owner, including, (1) a balance
286 sheet as of the end of the most recent fiscal year, and (2) income
287 statements for the most recent fiscal year of the owner or such shorter
288 period of time as the owner shall have been in existence.

289 (c) No person acting individually or jointly with any other person
290 shall establish, conduct, operate or maintain a nursing home without
291 maintaining professional liability insurance or other indemnity against
292 liability for professional malpractice. The amount of insurance which
293 such person shall maintain as insurance or indemnity against claims for
294 injury or death for professional malpractice shall be not less than one

295 million dollars for one person, per occurrence, with an aggregate of not
296 less than three million dollars. The requirements of this subsection shall
297 not apply to any person who establishes, conducts, operates or
298 maintains a residential care home.

299 (d) A person seeking to renew a nursing home license shall furnish
300 the department with any information required under this section that
301 was not previously submitted and with satisfactory written proof that
302 the owner of the nursing home consents to such renewal, if the owner is
303 different from the person seeking renewal, and shall provide data on
304 any change in the information submitted. The commissioner shall refuse
305 to issue or renew a nursing home license if the person seeking renewal
306 fails to provide the information required under this section. Upon such
307 refusal, the commissioner shall grant such license to the holder of the
308 certificate of need, provided such holder meets all requirements for such
309 licensure. If such holder does not meet such requirements, the
310 commissioner shall proceed in accordance with sections 19a-541 to 19a-
311 549, inclusive. If the commissioner is considering a license renewal
312 application pursuant to an order of the commissioner, the procedures in
313 this subsection shall apply to such consideration.

314 Sec. 9. Subsection (a) of section 17b-340 of the general statutes is
315 repealed and the following is substituted in lieu thereof (*Effective July 1,*
316 *2023*):

317 (a) For purposes of this subsection, (1) a "related party" includes, but
318 is not limited to, any company related to a chronic and convalescent
319 nursing home through family association, common ownership, control
320 or business association with any of the owners, operators or officials of
321 such nursing home; (2) "company" means any person, partnership,
322 association, holding company, limited liability company or corporation;
323 (3) "family association" means a relationship by birth, marriage or
324 domestic partnership; and (4) "profit and loss statement" means the
325 most recent annual statement on profits and losses finalized by a related
326 party before the annual report mandated under this subsection. The
327 rates to be paid by or for persons aided or cared for by the state or any

328 town in this state to licensed chronic and convalescent nursing homes,
329 to chronic disease hospitals associated with chronic and convalescent
330 nursing homes, to rest homes with nursing supervision, to licensed
331 residential care homes, as defined by section 19a-490, and to residential
332 facilities for persons with intellectual disability that are licensed
333 pursuant to section 17a-227 and certified to participate in the Title XIX
334 Medicaid program as intermediate care facilities for individuals with
335 intellectual disabilities, for room, board and services specified in
336 licensing regulations issued by the licensing agency shall be determined
337 annually, except as otherwise provided in this subsection by the
338 Commissioner of Social Services, to be effective July first of each year
339 except as otherwise provided in this subsection. Such rates shall be
340 determined on a basis of a reasonable payment for such necessary
341 services, which basis shall take into account as a factor the costs of such
342 services. Cost of such services shall include reasonable costs mandated
343 by collective bargaining agreements with certified collective bargaining
344 agents or other agreements between the employer and employees,
345 provided "employees" shall not include persons employed as managers
346 or chief administrators or required to be licensed as nursing home
347 administrators, and compensation for services rendered by proprietors
348 at prevailing wage rates, as determined by application of principles of
349 accounting as prescribed by said commissioner. Cost of such services
350 shall not include amounts paid by the facilities to employees as salary,
351 or to attorneys or consultants as fees, where the responsibility of the
352 employees, attorneys, or consultants is to persuade or seek to persuade
353 the other employees of the facility to support or oppose unionization.
354 Nothing in this subsection shall prohibit inclusion of amounts paid for
355 legal counsel related to the negotiation of collective bargaining
356 agreements, the settlement of grievances or normal administration of
357 labor relations. The commissioner may, in the commissioner's
358 discretion, allow the inclusion of extraordinary and unanticipated costs
359 of providing services that were incurred to avoid an immediate negative
360 impact on the health and safety of patients. The commissioner may, in
361 the commissioner's discretion, based upon review of a facility's costs,
362 direct care staff to patient ratio and any other related information, revise

363 a facility's rate for any increases or decreases to total licensed capacity
364 of more than ten beds or changes to its number of licensed rest home
365 with nursing supervision beds and chronic and convalescent nursing
366 home beds. The commissioner may, in the commissioner's discretion,
367 revise the rate of a facility that is closing. An interim rate issued for the
368 period during which a facility is closing shall be based on a review of
369 facility costs, the expected duration of the close-down period, the
370 anticipated impact on Medicaid costs, available appropriations and the
371 relationship of the rate requested by the facility to the average Medicaid
372 rate for a close-down period. The commissioner may so revise a facility's
373 rate established for the fiscal year ending June 30, 1993, and thereafter
374 for any bed increases, decreases or changes in licensure effective after
375 October 1, 1989. Effective July 1, 1991, in facilities that have both a
376 chronic and convalescent nursing home and a rest home with nursing
377 supervision, the rate for the rest home with nursing supervision shall
378 not exceed such facility's rate for its chronic and convalescent nursing
379 home. All such facilities for which rates are determined under this
380 subsection shall report on a fiscal year basis ending on September
381 thirtieth. Such report shall be submitted to the commissioner by
382 February fifteenth. Each [for-profit] chronic and convalescent nursing
383 home that receives state funding pursuant to this section shall include
384 in such annual report a profit and loss statement from each related party
385 that receives from such chronic and convalescent nursing home [fifty]
386 thirty thousand dollars or more per year for goods, fees and services.
387 No cause of action or liability shall arise against the state, the
388 Department of Social Services, any state official or agent for failure to
389 take action based on the information required to be reported under this
390 subsection. The commissioner may reduce the rate in effect for a facility
391 that fails to submit a complete and accurate report on or before February
392 fifteenth by an amount not to exceed ten per cent of such rate. If a
393 licensed residential care home fails to submit a complete and accurate
394 report, the department shall notify such home of the failure and the
395 home shall have thirty days from the date the notice was issued to
396 submit a complete and accurate report. If a licensed residential care
397 home fails to submit a complete and accurate report not later than thirty

398 days after the date of notice, such home may not receive a retroactive
399 rate increase, in the commissioner's discretion. The commissioner shall,
400 annually, on or before April first, report the data contained in the reports
401 of such facilities on the department's Internet web site. For the cost
402 reporting year commencing October 1, 1985, and for subsequent cost
403 reporting years, facilities shall report the cost of using the services of any
404 nursing personnel supplied by a temporary nursing services agency by
405 separating said cost into two categories, the portion of the cost equal to
406 the salary of the employee for whom the nursing personnel supplied by
407 a temporary nursing services agency is substituting shall be considered
408 a nursing cost and any cost in excess of such salary shall be further
409 divided so that seventy-five per cent of the excess cost shall be
410 considered an administrative or general cost and twenty-five per cent of
411 the excess cost shall be considered a nursing cost, provided if the total
412 costs of a facility for nursing personnel supplied by a temporary nursing
413 services agency in any cost year are equal to or exceed fifteen per cent
414 of the total nursing expenditures of the facility for such cost year, no
415 portion of such costs in excess of fifteen per cent shall be classified as
416 administrative or general costs. The commissioner, in determining such
417 rates, shall also take into account the classification of patients or
418 boarders according to special care requirements or classification of the
419 facility according to such factors as facilities and services and such other
420 factors as the commissioner deems reasonable, including anticipated
421 fluctuations in the cost of providing such services. The commissioner
422 may establish a separate rate for a facility or a portion of a facility for
423 traumatic brain injury patients who require extensive care but not acute
424 general hospital care. Such separate rate shall reflect the special care
425 requirements of such patients. If changes in federal or state laws,
426 regulations or standards adopted subsequent to June 30, 1985, result in
427 increased costs or expenditures in an amount exceeding one-half of one
428 per cent of allowable costs for the most recent cost reporting year, the
429 commissioner shall adjust rates and provide payment for any such
430 increased reasonable costs or expenditures within a reasonable period
431 of time retroactive to the date of enforcement. Nothing in this section
432 shall be construed to require the Department of Social Services to adjust

433 rates and provide payment for any increases in costs resulting from an
434 inspection of a facility by the Department of Public Health. Such
435 assistance as the commissioner requires from other state agencies or
436 departments in determining rates shall be made available to the
437 commissioner at the commissioner's request. Payment of the rates
438 established pursuant to this section shall be conditioned on the
439 establishment by such facilities of admissions procedures that conform
440 with this section, section 19a-533 and all other applicable provisions of
441 the law and the provision of equality of treatment to all persons in such
442 facilities. The established rates shall be the maximum amount
443 chargeable by such facilities for care of such beneficiaries, and the
444 acceptance by or on behalf of any such facility of any additional
445 compensation for care of any such beneficiary from any other person or
446 source shall constitute the offense of aiding a beneficiary to obtain aid
447 to which the beneficiary is not entitled and shall be punishable in the
448 same manner as is provided in subsection (b) of section 17b-97.
449 Notwithstanding any provision of this section, the Commissioner of
450 Social Services may, within available appropriations, provide an interim
451 rate increase for a licensed chronic and convalescent nursing home or a
452 rest home with nursing supervision for rate periods no earlier than April
453 1, 2004, only if the commissioner determines that the increase is
454 necessary to avoid the filing of a petition for relief under Title 11 of the
455 United States Code; imposition of receivership pursuant to sections 19a-
456 542 and 19a-543; or substantial deterioration of the facility's financial
457 condition that may be expected to adversely affect resident care and the
458 continued operation of the facility, and the commissioner determines
459 that the continued operation of the facility is in the best interest of the
460 state. The commissioner shall consider any requests for interim rate
461 increases on file with the department from March 30, 2004, and those
462 submitted subsequently for rate periods no earlier than April 1, 2004.
463 When reviewing an interim rate increase request the commissioner
464 shall, at a minimum, consider: (A) Existing chronic and convalescent
465 nursing home or rest home with nursing supervision utilization in the
466 area and projected bed need; (B) physical plant long-term viability and
467 the ability of the owner or purchaser to implement any necessary

468 property improvements; (C) licensure and certification compliance
469 history; (D) reasonableness of actual and projected expenses; and (E) the
470 ability of the facility to meet wage and benefit costs. No interim rate
471 shall be increased pursuant to this subsection in excess of one hundred
472 fifteen per cent of the median rate for the facility's peer grouping,
473 established pursuant to subdivision (2) of subsection (f) of this section,
474 unless recommended by the commissioner and approved by the
475 Secretary of the Office of Policy and Management after consultation
476 with the commissioner. Such median rates shall be published by the
477 Department of Social Services not later than April first of each year. In
478 the event that a facility granted an interim rate increase pursuant to this
479 section is sold or otherwise conveyed for value to an unrelated entity
480 less than five years after the effective date of such rate increase, the rate
481 increase shall be deemed rescinded and the department shall recover an
482 amount equal to the difference between payments made for all affected
483 rate periods and payments that would have been made if the interim
484 rate increase was not granted. The commissioner may seek recovery of
485 such payments from any facility with common ownership. With the
486 approval of the Secretary of the Office of Policy and Management, the
487 commissioner may waive recovery and rescission of the interim rate for
488 good cause shown that is not inconsistent with this section, including,
489 but not limited to, transfers to family members that were made for no
490 value. The commissioner shall provide written quarterly reports to the
491 joint standing committees of the General Assembly having cognizance
492 of matters relating to aging, human services and appropriations and the
493 budgets of state agencies, that identify each facility requesting an
494 interim rate increase, the amount of the requested rate increase for each
495 facility, the action taken by the commissioner and the secretary pursuant
496 to this subsection, and estimates of the additional cost to the state for
497 each approved interim rate increase. Nothing in this subsection shall
498 prohibit the commissioner from increasing the rate of a licensed chronic
499 and convalescent nursing home or a rest home with nursing supervision
500 for allowable costs associated with facility capital improvements or
501 increasing the rate in case of a sale of a licensed chronic and convalescent
502 nursing home or a rest home with nursing supervision if receivership

503 has been imposed on such home. For purposes of this section,
504 "temporary nursing services agency" and "nursing personnel" have the
505 same meaning as provided in section 19a-118.

506 Sec. 10. (NEW) (*Effective from passage*) The Commissioner of Social
507 Services shall develop a guidebook that includes, but need not be
508 limited to, a glossary and plain language explanation of the terms
509 relating to and a description of the Medicaid nursing home rate setting
510 process. Not later than July 1, 2024, the commissioner shall post the
511 guidebook in a conspicuous area on the Internet web site of the
512 Department of Social Services. The commissioner may update the
513 guidebook as deemed necessary.

514 Sec. 11. (*Effective from passage*) The Secretary of the Office of Policy
515 and Management, in consultation with the Commissioners of Consumer
516 Protection and Public Health, shall develop a plan to transfer the
517 responsibility for registration and oversight of homemaker-companion
518 agencies, as defined in section 20-670 of the general statutes from the
519 Department of Consumer Protection to the Department of Public
520 Health. Such plan shall (1) provide a timeline for the proposed
521 transition, and (2) include recommendations on appropriate training
522 standards that (A) exemplify best practices for providing homemaker
523 and companion services, as defined in section 20-670 of the general
524 statutes, (B) provide instruction and specialized training benchmarks
525 for the care of clients with Alzheimer's disease, dementia and other
526 related conditions, and (C) ensure a high quality of care for homemaker-
527 companion agency clients and may evaluate and make
528 recommendations on the appropriate use of the term "care" in
529 describing the services provided by homemaker-companion agencies
530 and any limitations on the use of such term to ensure consumer clarity.
531 Not later than August 1, 2024, the secretary shall report, in accordance
532 with section 11-4a of the general statutes, on such plan to the joint
533 standing committees of the General Assembly having cognizance of
534 matters relating to aging, general law and public health.

535 Sec. 12. Section 20-675 of the general statutes is repealed and the

536 following is substituted in lieu thereof (*Effective from passage*):

537 (a) The Commissioner of Consumer Protection may revoke, suspend
538 or refuse to issue or renew any certificate of registration as a
539 homemaker-companion agency or place an agency on probation or issue
540 a letter of reprimand for: (1) Conduct by the agency, or by an employee
541 of the agency while in the course of employment, of a character likely to
542 mislead, deceive or defraud the public or the commissioner; (2)
543 engaging in any untruthful or misleading advertising; (3) failure of such
544 agency that acts as a registry to comply with the notice requirements of
545 section 20-679a; [or] (4) failing to perform a comprehensive background
546 check of a prospective employee or maintain a copy of materials
547 obtained during a comprehensive background check, as required by
548 section 20-678; or (5) failing to provide a written notice, obtain a signed
549 notice or maintain a copy of a signed notice, as required by section 17 of
550 this act.

551 (b) The commissioner shall revoke a certificate of registration if a
552 homemaker-companion agency is found to have violated, after an
553 administrative hearing conducted in accordance with chapter 54, the
554 provisions of subdivisions (1) to (5), inclusive, of subsection (a) of this
555 section three times in one calendar year.

556 ~~[(b)]~~ (c) The commissioner shall not revoke or suspend any certificate
557 of registration except upon notice and hearing in accordance with
558 chapter 54.

559 Sec. 13. Section 20-679 of the general statutes is repealed and the
560 following is substituted in lieu thereof (*Effective October 1, 2023*):

561 (a) Not later than seven calendar days after the date on which a
562 homemaker-companion agency commences providing homemaker
563 services or companion services, such agency shall provide the person
564 who receives the services, or the authorized representative of such
565 person, with a written contract or service plan. The written contract or
566 service plan shall be developed in consultation with such person or
567 authorized representative and include (1) a person-centered plan of care

568 and services that prescribes the anticipated scope, type, frequency,
569 duration and cost of the services provided by the agency, (2) the
570 anticipated scope, type and frequency of oversight of an employee
571 assigned to such person by the homemaker-companion agency, and (3)
572 a predetermined frequency of meetings between the person who
573 oversees such employee and the person who receives the services, or the
574 authorized representative of such person. In addition, any contract or
575 service plan provided by a homemaker-companion agency to a person
576 receiving services shall also provide conspicuous notice, in boldface
577 type [(1)] (A) of the person's right to request changes to, or review of the
578 contract or service plan, [(2)] (B) of the employees of such agency who,
579 pursuant to section 20-678 are required to submit to a comprehensive
580 background check, [(3)] (C) that upon the request of such person or an
581 authorized representative of such person, such agency shall provide
582 such person or representative of such person with written notice that a
583 comprehensive background check, as required pursuant to section 20-
584 678, was performed for all employees of such agency performing
585 services for such person, [(4)] (D) that such agency's records are
586 available for inspection or audit by the Department of Consumer
587 Protection, [(5)] (E) that the agency is not able to guarantee the extent to
588 which its services will be covered under any insurance plan, and [(6)]
589 (F) that such contract or service plan may be cancelled at any time by
590 the client if such contract or service plan does not contain a specific
591 period of duration. On the date that a homemaker-companion agency
592 provides such contract or service plan to such person, the agency shall
593 also provide a printed copy of the guide that details the process by
594 which such person, or such person's authorized representative, may file
595 a complaint against such agency, posted on the Department of
596 Consumer Protection's Internet web site pursuant to section 14 of this
597 act. No contract or service plan for the provision of homemaker or
598 companion services shall be valid against the person who receives the
599 services or the authorized representative of such person, unless the
600 contract or service plan has been signed by a duly authorized
601 representative of the homemaker-companion agency and the person
602 who receives the services or the authorized representative of such

603 person. The requirements of this section shall not apply to homemaker
604 services or companion services provided under the Connecticut home-
605 care program for the elderly administered by the Department of Social
606 Services in accordance with section 17b-342. A written contract or
607 service plan between a homemaker-companion agency and a person
608 receiving services or the authorized representative of such person shall
609 not be enforceable against such person receiving services or authorized
610 representative unless such written contract or service plan contains all
611 of the requirements of this section.

612 (b) Nothing in this section shall preclude a homemaker-companion
613 agency that has complied with [subdivisions (1) to (6)] subparagraphs
614 (A) to (F), inclusive, of subsection (a) of this section from the recovery of
615 payment for work performed based on the reasonable value of services
616 which were requested by the person receiving services, provided the
617 court determines that it would be inequitable to deny such recovery.

618 Sec. 14. (NEW) (*Effective from passage*) Not later than October 1, 2023,
619 the Commissioner of Consumer Protection shall post a guide that details
620 the process by which a person who receives homemaker services or
621 companion services, as defined in section 20-670 of the general statutes
622 or the authorized representative of such person, may file a complaint
623 against a homemaker-companion agency, as defined in section 20-670 of
624 the general statutes on its Internet web site.

625 Sec. 15. (NEW) (*Effective from passage*) On and after January 1, 2024,
626 each homemaker-companion agency, as defined in section 20-670 of the
627 general statutes shall have a printed consumer brochure and maintain
628 an Internet web site detailing the homemaker and companion services
629 offered by such agency and provide such brochure or the address of
630 such Internet web site upon the request of consumers.

631 Sec. 16. Section 20-677 of the general statutes is amended by adding
632 subsection (g) as follows (*Effective from passage*):

633 (NEW) (g) A homemaker-companion agency may include in its
634 business name and advertising the term "care" if such term is used in

635 reference to such agency's provision of homemaker services, provided,
636 on and after October 1, 2023, any such advertising (1) shall prominently
637 and clearly display in plain font with distinctly contrasting colors at the
638 top of such advertising, including, but not limited to, each page of the
639 agency's Internet web site, social media posts, print media and audio-
640 visual advertisements, the clear and conspicuous words: "(Insert name
641 of homemaker-companion agency) solely provides nonmedical care.",
642 or, if such advertising is an audio advertisement, such words shall be
643 audibly conveyed at the same speed and manner as the rest of such
644 audio advertisement, and (2) shall not include any words that indicate
645 or suggest that such agency provides any services beyond the scope of
646 services authorized under this chapter, including, but not limited to,
647 words relating to medical or health care licensure or services. A
648 homemaker-companion agency may include in its advertising words
649 that accurately describe, as determined by the commissioner, that such
650 agency has employees who are trained to provide homemaker services
651 to individuals experiencing memory difficulties, provided the agency
652 details the type of training and number of hours each employee was
653 trained to provide such services. A violation of the provisions of this
654 subsection shall constitute untruthful or misleading advertising for the
655 purposes of subsection (a) of section 20-675, as amended by this act.

656 Sec. 17. (NEW) (*Effective from passage*) Each homemaker-companion
657 agency, prior to providing homemaker services or companion services,
658 shall (1) provide the person who receives the services, or the authorized
659 representative of such person, with a written notice that the agency
660 provides nonmedical care, and (2) obtain the signature of such person
661 or representative on the written notice. The agency shall maintain a
662 paper or electronic copy of such signed notice until such time that the
663 person who receives the services ceases receiving services from the
664 agency and make such copy available for inspection upon the request of
665 the Commissioner of Consumer Protection.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	19a-535(c)
Sec. 2	<i>from passage</i>	17a-878(a)
Sec. 3	<i>from passage</i>	19a-535(k)
Sec. 4	<i>October 1, 2023</i>	19a-693
Sec. 5	<i>October 1, 2023</i>	19a-694
Sec. 6	<i>October 1, 2023</i>	New section
Sec. 7	<i>July 1, 2023</i>	New section
Sec. 8	<i>July 1, 2023</i>	19a-491a
Sec. 9	<i>July 1, 2023</i>	17b-340(a)
Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	20-675
Sec. 13	<i>October 1, 2023</i>	20-679
Sec. 14	<i>from passage</i>	New section
Sec. 15	<i>from passage</i>	New section
Sec. 16	<i>from passage</i>	20-677(g)
Sec. 17	<i>from passage</i>	New section

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

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Policy & Mgmt., Off.	GF - Cost	100,000	None
Aging and Disability Services, Dept.	GF - Cost	81,000	81,000
State Comptroller - Fringe Benefits ¹	GF - Cost	34,684	34,684
Social Services, Dept.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

The bill results in a cost to the Office of Policy and Management, Department of Aging and Disability Services, and the Office of the State Comptroller, as well as a potential revenue gain to the Department of Social Services. Fiscal impact is detailed by section below.

Section 6 of the bill establishes a new Dementia Services Coordinator position in the Department of Aging and Disability Services and results in total state costs of \$115,684 in both FY 24 and FY 25. This includes costs of approximately \$81,000 in both FY 24 and FY 25 associated with the new Coordinator position (based on the average salary for a Health Program Assistant 2), and \$34,684 in both FY 24 and FY 25 for associated fringe benefit costs.

Section 7 could result in a revenue gain to the Department of Social Services (DSS) associated with fines for nursing homes due to

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 42.82% of payroll in FY 24.

noncompliance with documentation requirements established by the amendment. Failure to comply with the provisions could result in a fine of not more than \$10,000 for each incident of noncompliance. Fines must be paid to the General Fund and credited to the Medicaid account.

Section 11 results in a cost of \$100,000 in FY 24 to the Office of Policy and Management to hire one consultant who will develop a plan to transfer homemaker-companion agency registration and oversight responsibilities from the Department of Consumer Protection (DCP) to the Department of Public Health (DPH) and prepare the required report by August 1, 2024.

The bill makes technical, conforming and other changes that have no fiscal impact.

House "A" strikes the language in the underlying bill and the associated impact and results in the fiscal impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation. The cost to OPM is anticipated in FY 24 only.

OLR Bill Analysis**HB 5781 (as amended by House "A")******AN ACT CONCERNING A STUDY OF THE NEEDS OF SENIOR CITIZENS.***

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SUMMARY:§§ 1-3 — INVOLUNTARY TRANSFER OR DISCHARGE NOTIFICATION

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

§§ 4 & 5 — MANAGED RESIDENTIAL COMMUNITIES FAMILY COUNCILS

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

§ 6 — DEMENTIA SERVICES COORDINATOR

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

§ 7 — NURSING HOME FACILITY COST REPORTING REQUIREMENTS

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

§ 8 — NURSING HOME PRIVATE EQUITY OWNERSHIP

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

§ 9 — RELATED PARTY INCOME REPORTING

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

§ 10 — MEDICAID RATE SETTING GUIDEBOOK FOR NURSING HOMES

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

§ 11 — TRANSITION PLAN FOR HOMEMAKER-COMPANION AGENCY OVERSIGHT

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

§ 12 — HOMEMAKER-COMPANION AGENCY REGISTRATION REVOCATION

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

§ 13 — HOMEMAKER-COMPANION AGENCY CONTRACTS & SERVICE PLANS

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

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

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

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

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

SUMMARY:

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

*House Amendment “A” replaces the underlying bill which would have required the Commission on Women, Children, Seniors, Equity and Opportunity executive director to consult with the Aging and Disability Services commissioner to study the needs of senior citizens in the state.

EFFECTIVE DATE: Upon passage, unless noted otherwise below.

§§ 1-3 — INVOLUNTARY TRANSFER OR DISCHARGE NOTIFICATION

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

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

By law, nursing homes must give residents and their representatives

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

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

Background — Related Bill

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

Background — Involuntary Transfers and Discharges

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

§§ 4 & 5 — MANAGED RESIDENTIAL COMMUNITIES FAMILY COUNCILS

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

The bill requires managed residential communities (MRCs) that offer assisted living services to encourage and help establish family councils

by January 1, 2024. Under the bill, family councils are self-determined, independent groups of family members and friends who (1) advocate for an MRC's residents' needs and interests and (2) facilitate open communication between the MRC administration, residents, and residents' family and friends. A resident's family member or friend cannot participate in a council without the resident's consent unless the resident lives in a dementia special care unit.

Background — Related Bill

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

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

§ 6 — DEMENTIA SERVICES COORDINATOR

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

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

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

EFFECTIVE DATE: October 1, 2023

Background — Related Bill

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

§ 7 — NURSING HOME FACILITY COST REPORTING REQUIREMENTS

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

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

The bill requires a nursing home that fails to comply with this reporting requirement to be fined up to \$10,000. Before imposing a penalty, the social services commissioner must notify the nursing home about the violation and allow it to request a review. The home must request a review within 15 days after receiving the notice, and DSS cannot impose the penalty while the review is pending.

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

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

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

§ 8 — NURSING HOME PRIVATE EQUITY OWNERSHIP

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

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

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

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

§ 9 — RELATED PARTY INCOME REPORTING

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

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

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

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

§ 10 — MEDICAID RATE SETTING GUIDEBOOK FOR NURSING HOMES

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

The bill requires the DSS commissioner to develop a guidebook that at least includes a glossary and a plain language (1) description of the Medicaid nursing home rate setting process and (2) explanation of terms related to it. The commissioner must post the guidebook in a conspicuous place on the agency's website by July 1, 2024, and may update it as needed.

Background — Related Bill

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

§ 11 — TRANSITION PLAN FOR HOMEMAKER-COMPANION AGENCY OVERSIGHT

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

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

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

Background — Related Bill

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

§ 12 — HOME-MAKER-COMPANION AGENCY REGISTRATION REVOCATION

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

Current law generally allows the DCP commissioner to revoke, suspend, or refuse to issue or renew a homemaker-companion agency's registration for (1) conduct that misleads or defrauds the public or commissioner, (2) engaging in misleading advertising, (3) failing to give

a consumer a notice of legal liabilities under certain circumstances, or (4) failing to complete background checks on prospective employees and maintain the materials from them. The bill also allows the commissioner to do this if an agency fails to give a consumer written notice, or obtain and maintain the consumer's signed copy of this notice, that the agency provides nonmedical care, as required by the bill (see § 17).

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

Background — Related Bill

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

§ 13 — HOMEMAKER-COMPANION AGENCY CONTRACTS & SERVICE PLANS

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

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

The bill additionally requires the agencies to develop this plan or contract in consultation with the consumer and expands the information that must be in it to include:

1. a person-centered plan of care and services;
2. the anticipated scope, type, and frequency of oversight by the agency over the employee assigned to the consumer; and

3. how often the person who oversees the agency's employee and the consumer will meet.

EFFECTIVE DATE: October 1, 2023

Background — Related Bill

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

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

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

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

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

Background — Related Bill

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

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

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

Brochure and Website (§ 15)

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

Advertising (§ 16)

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

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

Notice (§ 17)

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

Background — Related Bill

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

COMMITTEE ACTION

Aging Committee

Joint Favorable

Yea 12 Nay 3 (02/28/2023)