



# House of Representatives

General Assembly

**File No. 611**

February Session, 2024

Substitute House Bill No. 5046

*House of Representatives, April 25, 2024*

The Committee on Appropriations reported through REP. WALKER of the 93rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT PROMOTING NURSING HOME RESIDENT QUALITY OF LIFE.***

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

1 Section 1. Section 19a-521b of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Each licensed chronic and convalescent nursing home, chronic  
4 disease hospital associated with a chronic and convalescent nursing  
5 home, rest home with nursing supervision and residential care home  
6 shall position beds in a manner that promotes resident care and that  
7 provides at least a three-foot clearance at the sides and foot of each bed.  
8 Such bed position shall (1) not act as a restraint to the resident, (2) not  
9 create a hazardous situation, including, but not limited to, an  
10 entrapment possibility, or obstacle to evacuation or being close to or  
11 blocking a heat source, and (3) allow for infection control.

12 (b) On and after July 1, 2025, no licensed chronic and convalescent  
13 nursing home or rest home with nursing supervision shall place a newly

14 admitted resident in a room containing more than two beds. On and  
15 after July 1, 2026, no resident room in a licensed chronic and  
16 convalescent nursing home or rest home with nursing supervision shall  
17 contain more than two beds. A violation of the requirements of this  
18 subsection shall constitute a Class B violation under section 19a-527.  
19 Each day a licensed chronic and convalescent nursing home or rest  
20 home with nursing supervision fails to comply with the requirements of  
21 this subsection may be considered a separate violation for the purpose  
22 of imposing a penalty pursuant to section 19a-528.

23 Sec. 2. Section 19a-533 of the general statutes is repealed and the  
24 following is substituted in lieu thereof (*Effective July 1, 2024*):

25 (a) As used in this section, "nursing home" means any chronic and  
26 convalescent facility or any rest home with nursing supervision, as  
27 defined in section 19a-521, which has a provider agreement with the  
28 state to provide services to recipients of funds obtained through Title  
29 XIX of the Social Security Amendments of 1965; and "indigent person"  
30 means any person who is eligible for or who is receiving medical  
31 assistance benefits from the state.

32 (b) A nursing home which receives payment from the state for  
33 rendering care to indigent persons shall:

34 (1) Be prohibited from discriminating against indigent persons who  
35 apply for admission to such facility on the basis of source of payment.  
36 Except as otherwise provided by law, all applicants for admission to  
37 such facility shall be admitted in the order in which such applicants  
38 apply for admission. Each nursing home shall (A) provide a receipt to  
39 each applicant for admission to its facility who requests placement on a  
40 waiting list stating the date and time of such request, and (B) maintain  
41 a dated list of such applications which shall be available at all times to  
42 any applicant, his bona fide representative, authorized personnel from  
43 the Departments of Public Health and Social Services and such other  
44 state agencies or other bodies established by state statute whose  
45 statutory duties necessitate access to such lists. If a nursing home desires  
46 to remove the name of an applicant who is unresponsive to facility

47 telephone calls and letters from its waiting list, the nursing home may,  
48 no sooner than ninety days after initial placement of the person's name  
49 on the waiting list, inquire by letter to such applicant and any one  
50 person if designated by such applicant whether the applicant desires  
51 continuation of his name on the waiting list. If the applicant does not  
52 respond and an additional thirty days pass, the facility may remove  
53 such applicant's name from its waiting list. A nursing home may  
54 annually send a waiting list placement continuation letter to all persons  
55 on the waiting list for at least ninety days to inquire as to whether such  
56 person desires continuation of his name on the waiting list, provided  
57 such letter shall also be sent to any one person if designated by such  
58 applicant. If such person does not respond and at least thirty days pass,  
59 the facility may remove the person's name from its waiting list. Indigent  
60 persons shall be placed on any waiting list for admission to a facility and  
61 shall be admitted to the facility as vacancies become available, in the  
62 same manner as self-pay applicants, except as provided in subsections  
63 (f) and (g) of this section;

64 (2) Post in a conspicuous place a notice informing applicants for  
65 admission that the facility is prohibited by statute from discriminating  
66 against indigent applicants for admission on the basis of source of  
67 payment. Such notice shall advise applicants for admission of the  
68 remedies available under this section and shall list the name, address  
69 and telephone number of the ombudsman who serves the region in  
70 which the facility is located;

71 (3) Be prohibited from requiring that an indigent person pay any sum  
72 of money or furnish any other consideration, including, but not limited  
73 to, the furnishing of an agreement by the relative, conservator or other  
74 responsible party of an indigent person which obligates such party to  
75 pay for care rendered to an indigent person as a condition for admission  
76 of such indigent person;

77 (4) Record in the patient roster, maintained pursuant to the Public  
78 Health Code, or in a separate roster maintained for this purpose, the  
79 number of patients who are Medicare, Medicaid and private pay

80 patients on each day. Such numbers shall be recorded daily and made  
81 available, upon request, to the state or regional ombudsman.

82 (c) Upon the receipt of a complaint concerning a violation of this  
83 section, the Department of Social Services shall conduct an investigation  
84 into such complaint.

85 (d) The Department of Social Services is authorized to decrease the  
86 daily reimbursement rate to a nursing home for one year for a violation  
87 of this section which occurred during the twelve-month period covered  
88 by the cost report upon which the per diem rate is calculated. The per  
89 diem rate shall be reduced by one-quarter of one per cent for an initial  
90 violation of this section and one per cent for each additional violation.

91 (e) Prior to imposing any sanction, the Department of Social Services  
92 shall notify the nursing home of the alleged violation and the  
93 accompanying sanction, and shall permit such facility to request an  
94 administrative hearing, in accordance with sections 4-176e to 4-181a,  
95 inclusive. A facility shall request such hearing within fifteen days of  
96 receipt of the notice of violation from the Department of Social Services.  
97 The department shall stay the imposition of any sanction pending the  
98 outcome of the administrative hearing.

99 (f) A nursing home with a number of self-pay residents equal to or  
100 less than thirty per cent of its total number of residents shall not be  
101 required to admit an indigent person on a waiting list for admission  
102 when a vacancy becomes available during the subsequent six months,  
103 provided (1) no bed may be held open for more than thirty days, [. Each  
104 such nursing home meeting the conditions for such waiver shall on a  
105 quarterly basis notify] and (2) the nursing home notifies the  
106 Commissioner of Social Services and the regional nursing home  
107 ombudsman office [of] on the date on which such six-month period of  
108 [waiver began] waiting list exemption began and thereafter on a  
109 quarterly basis if the conditions for exemption still apply.

110 (g) A nursing home shall not be required to admit an indigent person  
111 on a waiting list for admission when a vacancy becomes available if the

112 vacancy is in a private room.

113 (h) Notwithstanding the provisions of this section, a nursing home  
114 [may] shall, without regard to the order of its waiting list, admit an  
115 applicant who (1) seeks to transfer from a nursing home that is closing,  
116 or (2) seeks to transfer from a nursing home in which the applicant was  
117 placed following the closure of the nursing home where such applicant  
118 previously resided or, in the case of a nursing home placed in  
119 receivership, the anticipated closure of the nursing home where such  
120 applicant previously resided, provided (A) the transfer occurs not later  
121 than sixty days following the date that such applicant was transferred  
122 from the nursing home where he or she previously resided, and (B)  
123 except when the nursing home that is closing transferred the resident  
124 due to an emergency, the applicant submitted an application to the  
125 nursing home to which he or she seeks admission at the time of the  
126 applicant's transfer from the nursing home where he or she previously  
127 resided. A nursing home that qualifies for a waiting list exemption  
128 pursuant to subsection (f) of this section shall not be required to admit  
129 an indigent person under this subsection except when the resident is  
130 being transferred from a nursing home that is closing due to an  
131 emergency.

132 Sec. 3. (NEW) (*Effective from passage*) The Commissioner of Public  
133 Health shall not grant any new license to establish, conduct or operate a  
134 rest home with nursing supervision on and after the effective date of  
135 this section. Notwithstanding the provisions of this section, the  
136 commissioner may, upon application by a rest home with nursing  
137 supervision, approve a one-time renewal for not more than one year of  
138 a license that expires on or after the effective date of this section,  
139 provided the rest home is in compliance with the requirements for such  
140 renewal. The denial of such a renewal shall not be subject to an appeal  
141 under section 19a-501 of the general statutes.

142 Sec. 4. Section 17b-357 of the general statutes is repealed and the  
143 following is substituted in lieu thereof (*Effective from passage*):

144 (a) For purposes of this section and sections 17b-358 to 17b-360,

145 inclusive, a "nursing facility" means a chronic and convalescent home or  
146 a rest home with nursing supervision as defined in section 19a-521,  
147 which participates in the Medicaid program through a provider  
148 agreement with the Department of Social Services.

149 (b) If the Department of Public Health finds, through the results of a  
150 survey, that a nursing facility is not in compliance with one or more of  
151 the requirements of Subsections (b), (c) and (d) of 42 USC 1396r, or the  
152 requirements of applicable state statutes or regulations, and that such  
153 noncompliance poses an immediate and serious threat to patient health  
154 or safety, the Department of Public Health shall issue a statement of  
155 charges to the facility and shall file a copy of the charges with the  
156 Department of Social Services with a request for a summary order from  
157 the Department of Social Services. The summary order which the  
158 Department of Social Services may issue shall include termination of the  
159 facility's participation in Medicaid or appointment of a temporary  
160 manager to oversee the operation of the facility and may include  
161 transfer of patients to other participating facilities; denial of payment  
162 under Medicaid for new admissions; imposition of a directed plan of  
163 correction of the facility's deficiencies; imposition of civil monetary  
164 penalties; or imposition of other remedies authorized by regulations  
165 adopted by the Department of Social Services in accordance with  
166 chapter 54.

167 (c) If the Department of Public Health finds, through the results of a  
168 survey, that a nursing facility is not in compliance with one or more of  
169 the requirements of Subsections (b), (c) and (d) of 42 USC 1396r, or the  
170 requirements of applicable state statutes or regulations, but that such  
171 noncompliance does not pose an immediate and obvious threat to  
172 patient health or safety, the Department of Public Health shall issue a  
173 statement of charges to the facility and shall file a copy of the charges  
174 with the Department of Social Services with a request for an order  
175 imposing one or more alternative remedies under this subsection. If the  
176 Department of Social Services finds, based on a statement of charges  
177 filed by the Department of Public Health, that a nursing facility is not in  
178 compliance with one or more of the requirements of Subsections (b), (c)

179 and (d) of 42 USC 1396r, or the requirements of applicable state statutes  
180 or regulations, but does not issue a summary order, it may impose one  
181 or more of the following alternative remedies: Termination of the  
182 facility's participation in Medicaid; appointment of a temporary  
183 manager to oversee the operation of the facility; transfer of patients to  
184 other participating facilities; denial of payment under Medicaid for new  
185 admissions; imposition of a directed plan of correction of the facility's  
186 deficiencies; imposition of civil monetary penalties; or imposition of  
187 other remedies authorized by regulations adopted by the Department  
188 of Social Services in accordance with chapter 54. The civil monetary  
189 penalties imposed may be in the range of three thousand two hundred  
190 fifty dollars to ten thousand dollars per day for each day the facility is  
191 found to be out of compliance with one or more requirements of  
192 Subsections (b), (c) and (d) of 42 USC 1396r if the failure to comply with  
193 such requirements is found to constitute an immediate and serious  
194 threat to resident health or safety, or in the range of two hundred dollars  
195 to three thousand dollars per day for each day the facility is found to be  
196 out of compliance with a requirement of Subsections (b), (c) and (d) of  
197 42 USC 1396r that is found not to constitute an immediate and serious  
198 threat to resident health or safety. The exact civil monetary penalty will  
199 be set depending on such factors as the existence of repeat deficiencies  
200 or uncorrected deficiencies and the overall compliance history of the  
201 provider. The remedies available to the Department of Social Services  
202 for violations of the requirements of Subsections (b), (c) and (d) of 42  
203 USC 1396r are cumulative and are in addition to the remedies available  
204 to the Department of Public Health under chapter 368v for violations of  
205 state licensure requirements. Any penalties collected by the Department  
206 of Social Services pursuant to this section shall be deposited in a special  
207 fund under the control of the Department of Social Services, which fund  
208 shall be utilized, in the discretion of the department, for the protection  
209 of the health or property of residents of nursing facilities found to be  
210 deficient, including payment for the costs of relocating residents,  
211 payment for the maintenance of operation of a facility pending  
212 correction of deficiencies or closure, and reimbursement of residents for  
213 personal funds lost. The deficient nursing facility shall be obligated to

214 reimburse the Department of Social Services for any moneys expended  
215 by the department at the facility from the fund established pursuant to  
216 this section.

217 (d) The facility may request a hearing in accordance with the  
218 provisions of chapter 54 from the Department of Social Services within  
219 ten days of the issuance of the statement of charges or the summary  
220 order, as the case may be. If the facility does not request a hearing within  
221 ten days and no summary order has been issued, the Department of  
222 Social Services shall automatically adopt the Department of Public  
223 Health's findings and shall issue an order incorporating one or more of  
224 the remedies authorized by subsection (c) of this section. If the facility  
225 timely requests a hearing or the Department of Social Services issues a  
226 summary order, the Department of Social Services shall issue a notice of  
227 hearing. At such hearing the facility shall be given the opportunity to  
228 present evidence and cross-examine witnesses. The Department of  
229 Social Services shall issue a decision based on the administrative record  
230 and may, if it finds the facility not in compliance with one or more of the  
231 requirements of Subsections (b), (c) and (d) of 42 USC 1396r, or the  
232 requirements of applicable state statutes or regulations, order any of the  
233 remedies specified in this section. The Department of Social Services  
234 may impose any of the alternative remedies, except for a civil monetary  
235 penalty, during the pendency of any proceedings conducted pursuant  
236 to this subsection. In such cases, the Department of Social Services must  
237 provide the facility the opportunity to discuss the Department of Public  
238 Health's findings at an informal conference prior to the imposition of  
239 any remedy. The requirement of an informal conference does not apply  
240 to summary order proceedings.

241 Sec. 5. Subsection (b) of section 19a-496 of the general statutes is  
242 repealed and the following is substituted in lieu thereof (*Effective from*  
243 *passage*):

244 (b) The department may inspect an institution to determine  
245 compliance with applicable state statutes and regulations. Upon a  
246 finding of noncompliance with such statutes or regulations, the



247 department shall issue a written notice of noncompliance to the  
248 institution. Not later than ten business days after such institution  
249 receives a notice of noncompliance, the institution shall submit a plan of  
250 correction to the department in response to the items of noncompliance  
251 identified in such notice. The plan of correction shall include: (1) The  
252 measures that the institution intends to implement or systemic changes  
253 that the institution intends to make to prevent a recurrence of each  
254 identified issue of noncompliance; (2) the date each such corrective  
255 measure or change by the institution is effective; (3) the institution's plan  
256 to monitor its quality assessment and performance improvement  
257 functions to ensure that the corrective measure or systemic change is  
258 sustained; and (4) the title of the institution's staff member that is  
259 responsible for ensuring the institution's compliance with its plan of  
260 correction. The plan of correction shall be deemed to be the institution's  
261 representation of compliance with the identified state statutes or  
262 regulations identified in the department's notice of noncompliance. The  
263 failure of the institution to comply with a plan of correction accepted by  
264 the department may be the subject of disciplinary action against the  
265 institution pursuant to section 19a-494. Any institution that fails to  
266 submit a plan of correction that meets the requirements of this section  
267 may be subject to disciplinary action.

268 Sec. 6. Section 19a-700 of the general statutes is repealed and the  
269 following is substituted in lieu thereof (*Effective from passage*):

270 A managed residential community shall enter into a written  
271 residency agreement with each resident that clearly sets forth the rights  
272 and responsibilities of the resident and the managed residential  
273 community, including the duties set forth in section 19a-562. The  
274 residency agreement shall be set forth in plain language and printed in  
275 not less than fourteen-point type. The residency agreement shall be  
276 signed by the managed residential community's authorized agent and  
277 by the resident, or the resident's legal representative, prior to the  
278 resident taking possession of a private residential unit and shall include,  
279 at a minimum:

280 (1) An itemization of assisted living services, transportation services,  
281 recreation services and any other services and goods, lodging and meals  
282 to be provided on behalf of the resident by the managed residential  
283 community;

284 (2) A full and fair disclosure of all charges, fees, expenses and costs  
285 to be borne by the resident including, for written residency agreements  
286 entered into on and after July 1, 2024, nonrefundable charges, fees,  
287 expenses and costs;

288 (3) A schedule of payments and disclosure of all late fees or potential  
289 penalties;

290 (4) For written residency agreements entered into on and after July 1,  
291 2024, the manner in which the managed residential community may  
292 adjust monthly fees or other recurring fees, including, but not limited  
293 to, (A) how often fee increases may occur, (B) the schedule or specific  
294 dates of such increases, and (C) the history of fee increases over the past  
295 three calendar years;

296 [(4)] (5) The grievance procedure with respect to enforcement of the  
297 terms of the residency agreement;

298 [(5)] (6) The managed residential community's covenant to comply  
299 with all municipal, state and federal laws and regulations regarding  
300 consumer protection and protection from financial exploitation;

301 [(6)] (7) The managed residential community's covenant to afford  
302 residents all rights and privileges afforded under title 47a;

303 [(7)] (8) The conditions under which the agreement can be terminated  
304 by either party;

305 [(8)] (9) Full disclosure of the rights and responsibilities of the  
306 resident and the managed residential community in situations  
307 involving serious deterioration in the health of the resident,  
308 hospitalization of the resident or death of the resident, including a  
309 provision that specifies that in the event that a resident of the

310 community dies, the estate or family of such resident shall only be  
311 responsible for further payment to the community for a period of time  
312 not to exceed fifteen days following the date of death of such resident as  
313 long as the private residential unit formerly occupied by the resident  
314 has been vacated; and

315 ~~[(9)]~~ (10) Any adopted rules of the managed residential community  
316 reasonably designed to promote the health, safety and welfare of  
317 residents.

318 Sec. 7. Section 19a-694 of the 2024 supplement to the general statutes  
319 is repealed and the following is substituted in lieu thereof (*Effective July*  
320 *1, 2024*):

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

322 (1) Provide a written residency agreement to each resident in  
323 accordance with section 19a-700, as amended by this act;

324 (2) Provide residents or residents' representatives advance notice of  
325 ninety days of any increase to monthly or recurring fees and disclose in  
326 writing any nonrefundable charges;

327 (3) Provide residents prorated or full reimbursement of certain  
328 charges if the managed residential community determines it can no  
329 longer meet the resident's needs during the first forty-five days after  
330 occupancy by the resident of the managed residential community unit,  
331 including, but not limited to, prorated first month's rent, prorated  
332 community fee, full last month's rent and full security deposit;

333 ~~[(2)]~~ (4) Afford residents the ability to access services provided by an  
334 assisted living services agency. Such services shall be provided in  
335 accordance with a service plan developed in accordance with section  
336 19a-699;

337 ~~[(3)]~~ (5) Upon the request of a resident, arrange, in conjunction with  
338 the assisted living services agency, for the provision of ancillary medical  
339 services on behalf of a resident, including physician and dental services,

340 pharmacy services, restorative physical therapies, podiatry services,  
341 hospice care and home health agency services, provided the ancillary  
342 medical services are not administered by employees of the managed  
343 residential community, unless the resident chooses to receive such  
344 services;

345 [(4)] (6) Provide a formally established security program for the  
346 protection and safety of residents that is designed to protect residents  
347 from intruders;

348 [(5)] (7) Afford residents the rights and privileges guaranteed under  
349 title 47a;

350 [(6)] (8) Comply with the provisions of subsection (c) of section 19-13-  
351 D105 of the regulations of Connecticut state agencies;

352 [(7)] (9) Assist a resident who has a long-term care insurance policy  
353 with preparing and submitting claims for benefits to the insurer,  
354 provided such resident has executed a written authorization requesting  
355 and directing the insurer to (A) disclose information to the managed  
356 residential community relevant to such resident's eligibility for an  
357 insurance benefit or payment, and (B) provide a copy of the acceptance  
358 or declination of a claim for benefits to the managed residential  
359 community at the same time such acceptance or declination is made to  
360 such resident; and

361 [(8) On or before January 1, 2024, encourage] (10) Encourage and  
362 assist in the establishment of a family council in managed residential  
363 communities offering assisted living services. Such family council shall  
364 not allow a family member or friend of a resident who is not a resident  
365 of a dementia special care unit to participate in the family council  
366 without the consent of such resident.

367 (b) No managed residential community shall control or manage the  
368 financial affairs or personal property of any resident, except as provided  
369 for in subdivision [(7)] (9) of subsection (a) of this section.

370 Sec. 8. Subsection (e) of section 19a-564 of the 2024 supplement to the

---

371 general statutes is repealed and the following is substituted in lieu  
372 thereof (*Effective July 1, 2024*):

373 (e) An assisted living services agency shall: [ensure that] (1) Ensure  
374 that all services being provided on an individual basis to clients are fully  
375 understood and agreed upon between either the client or the client's  
376 representative; [, and] (2) ensure that the client or the client's  
377 representative are made aware of the cost of any such services; (3)  
378 disclose fee increases to a resident or a resident's representative not later  
379 than sixty days prior to such fees taking effect; and (4) provide, upon  
380 request, to a resident and a resident's representative the history of fee  
381 increases over the past three calendar years. Nothing in this subsection  
382 shall be construed to limit an assisted living services agency from  
383 immediately adjusting fees to the extent such adjustments are directly  
384 related to a change in the level of care or services necessary to meet  
385 individual resident safety needs at the time of a scheduled resident care  
386 meeting or if a resident's change of condition requires a change in  
387 services.

388 Sec. 9. Section 17b-99a of the general statutes is repealed and the  
389 following is substituted in lieu thereof (*Effective from passage*):

390 (a) (1) For purposes of this section, (A) "extrapolation" means the  
391 determination of an unknown value by projecting the results of the  
392 review of a sample to the universe from which the sample was drawn,  
393 (B) "facility" means any facility described in this subsection and for  
394 which rates are established pursuant to section 17b-340 or 17b-340d,  
395 [and] (C) "universe" means a defined population of claims submitted by  
396 a facility during a specific time period, and (D) "forensic audit" means  
397 an examination of financial records for information or evidence that  
398 may be used in a legal proceeding.

399 (2) The Commissioner of Social Services shall conduct any audit,  
400 including a forensic audit, of a licensed chronic and convalescent  
401 nursing home, chronic disease hospital associated with a chronic and  
402 convalescent nursing home, a rest home with nursing supervision, a  
403 licensed residential care home, as defined in section 19a-490, and a

404 residential facility for persons with intellectual disability which is  
405 licensed pursuant to section 17a-227 and certified to participate in the  
406 Medicaid program as an intermediate care facility for individuals with  
407 intellectual disabilities in accordance with the provisions of this section.

408 (b) Not less than thirty days prior to the commencement of any such  
409 audit, the commissioner shall provide written notification of the audit  
410 to such facility, unless the commissioner makes a good-faith  
411 determination that (1) the health or safety of a recipient of services is at  
412 risk; or (2) the facility is engaging in vendor fraud under sections 53a-  
413 290 to 53a-296, inclusive.

414 (c) Any clerical error, including, but not limited to, recordkeeping,  
415 typographical, scrivener's or computer error, discovered in a record or  
416 document produced for any such audit, shall not of itself constitute a  
417 wilful violation of the rules of a medical assistance program  
418 administered by the Department of Social Services unless proof of intent  
419 to commit fraud or otherwise violate program rules is established. In  
420 determining which facilities shall be subject to audits, the Commissioner  
421 of Social Services may give consideration to the history of a facility's  
422 compliance in addition to other criteria used to select a facility for an  
423 audit.

424 (d) A finding of overpayment or underpayment to such facility shall  
425 not be based on extrapolation unless (1) there is a determination of  
426 sustained or high level of payment error involving the facility, (2)  
427 documented educational intervention has failed to correct the level of  
428 payment error, or (3) the value of the claims in aggregate exceeds two  
429 hundred thousand dollars on an annual basis.

430 (e) A facility, in complying with the requirements of any such audit,  
431 shall be allowed not less than thirty days to provide documentation in  
432 connection with any discrepancy discovered and brought to the  
433 attention of such facility in the course of any such audit.

434 (f) The commissioner shall produce a preliminary written report  
435 concerning any audit conducted pursuant to this section and such

436 preliminary report shall be provided to the facility that was the subject  
437 of the audit not later than sixty days after the conclusion of such audit.

438 (g) The commissioner shall, following the issuance of the preliminary  
439 report pursuant to subsection (f) of this section, hold an exit conference  
440 with any facility that was the subject of any audit pursuant to this  
441 subsection for the purpose of discussing the preliminary report. Such  
442 facility may present evidence at such exit conference refuting findings  
443 in the preliminary report.

444 (h) The commissioner shall produce a final written report concerning  
445 any audit conducted pursuant to this subsection. Such final written  
446 report shall be provided to the facility that was the subject of the audit  
447 not later than sixty days after the date of the exit conference conducted  
448 pursuant to subsection (g) of this section, unless the commissioner and  
449 the facility agree to a later date or there are other referrals or  
450 investigations pending concerning the facility.

451 (i) Any facility aggrieved by a final report issued pursuant to  
452 subsection (h) of this section may request a rehearing. A rehearing shall  
453 be held by the commissioner or the commissioner's designee, provided  
454 a detailed written description of all items of aggrievement in the final  
455 report is filed by the facility not later than ninety days following the date  
456 of written notice of the commissioner's decision. The rehearing shall be  
457 held not later than thirty days following the date of filing of the detailed  
458 written description of each specific item of aggrievement. The  
459 commissioner shall issue a final decision not later than sixty days  
460 following the close of evidence or the date on which final briefs are filed,  
461 whichever occurs later. Any items not resolved at such rehearing to the  
462 satisfaction of the facility or the commissioner shall be submitted to  
463 binding arbitration by an arbitration board consisting of one member  
464 appointed by the facility, one member appointed by the commissioner  
465 and one member appointed by the Chief Court Administrator from  
466 among the retired judges of the Superior Court, which retired judge  
467 shall be compensated for his services on such board in the same manner  
468 as a state referee is compensated for his services under section 52-434.

469 The proceedings of the arbitration board and any decisions rendered by  
470 such board shall be conducted in accordance with the provisions of the  
471 Social Security Act, 42 USC 1396, as amended from time to time, and  
472 chapter 54.

473 (j) The submission of any false or misleading fiscal information or  
474 data to the commissioner shall be grounds for suspension of payments  
475 by the state under sections 17b-239 to 17b-246, inclusive, and sections  
476 17b-340<sub>2</sub> and 17b-343, in accordance with regulations adopted by the  
477 commissioner. In addition, any person, including any corporation, who  
478 knowingly makes or causes to be made any false or misleading  
479 statement or who knowingly submits false or misleading fiscal  
480 information or data on the forms approved by the commissioner shall  
481 be guilty of a class D felony.

482 (k) The commissioner, or any agent authorized by the commissioner  
483 to conduct any inquiry, investigation or hearing under the provisions of  
484 this section, shall have power to administer oaths and take testimony  
485 under oath relative to the matter of inquiry or investigation. At any  
486 hearing ordered by the commissioner, the commissioner or such agent  
487 having authority by law to issue such process may subpoena witnesses  
488 and require the production of records, papers and documents pertinent  
489 to such inquiry. If any person disobeys such process or, having  
490 appeared in obedience thereto, refuses to answer any pertinent question  
491 put to the person by the commissioner or the commissioner's authorized  
492 agent or to produce any records and papers pursuant thereto, the  
493 commissioner or the commissioner's agent may apply to the superior  
494 court for the judicial district of Hartford or for the judicial district  
495 wherein the person resides or wherein the business has been conducted,  
496 or to any judge of such court if the same is not in session, setting forth  
497 such disobedience to process or refusal to answer, and such court or  
498 judge shall cite such person to appear before such court or judge to  
499 answer such question or to produce such records and papers.

500 (l) The commissioner shall provide free training to facilities on the  
501 preparation of cost reports to avoid clerical errors and shall post



502 information on the department's Internet web site concerning the  
503 auditing process and methods to avoid clerical errors. Not later than  
504 April 1, 2015, the commissioner shall establish audit protocols to assist  
505 facilities subject to audit pursuant to this section in developing  
506 programs to improve compliance with Medicaid requirements under  
507 state and federal laws and regulations, provided audit protocols may  
508 not be relied upon to create a substantive or procedural right or benefit  
509 enforceable at law or in equity by any person, including a corporation.  
510 The commissioner shall establish and publish on the department's  
511 Internet web site audit protocols for: (1) Licensed chronic and  
512 convalescent nursing homes, (2) chronic disease hospitals associated  
513 with chronic and convalescent nursing homes, (3) rest homes with  
514 nursing supervision, (4) licensed residential care homes, as defined in  
515 section 19a-490, and (5) residential facilities for persons with intellectual  
516 disability that are licensed pursuant to section 17a-227 and certified to  
517 participate in the Medicaid program as intermediate care facilities for  
518 individuals with intellectual disabilities. The commissioner shall ensure  
519 that the Department of Social Services, or any entity with which the  
520 commissioner contracts to conduct an audit pursuant to this section, has  
521 on staff or consults with, as needed, licensed health professionals with  
522 experience in treatment, billing and coding procedures used by the  
523 facilities being audited pursuant to this section.

524 (m) A facility shall be liable to the Department of Social Services for  
525 the costs of any forensic audit of a facility identified by the department  
526 as potentially experiencing a serious financial loss, including, but not  
527 limited to, any reports or subsequent testimony related thereto. A  
528 facility shall cooperate and assist with a forensic audit as requested by  
529 the department and shall ensure that all facility personnel, financial  
530 consultants and accountants fully cooperate and assist with a forensic  
531 audit as may be necessary. A facility shall be subject to a civil monetary  
532 penalty not to exceed three thousand two hundred fifty dollars per day  
533 for each day that the facility fails to comply with a written request by  
534 the department to cooperate and assist with a forensic audit. A facility  
535 may request a fair hearing on the assessment of any such civil monetary  
536 penalty as an aggrieved person pursuant to section 17b-60. The

537 department may recover the costs of any such forensic audit or civil  
538 monetary penalties assessed in accordance with this subsection through  
539 recoupment of such amounts against the funds that would otherwise be  
540 paid to such facility for services rendered to recipients of assistance  
541 under the Medicaid program.

542 Sec. 10. Section 19a-543 of the general statutes is repealed and the  
543 following is substituted in lieu thereof (*Effective from passage*):

544 The court shall grant an application for the appointment of a receiver  
545 for a nursing home facility or residential care home upon a finding of  
546 any of the following: (1) Such facility or home is operating without a  
547 license issued pursuant to this chapter or such facility's or home's license  
548 has been suspended or revoked pursuant to section 19a-494; (2) such  
549 facility or home intends to close and adequate arrangements for  
550 relocation of its residents have not been made at least thirty days prior  
551 to closing; (3) such facility or home has sustained a serious financial loss  
552 or failure [which jeopardizes the health, safety and welfare of the  
553 patients] or there is a reasonable likelihood of such loss or failure; or (4)  
554 there exists in such facility a condition in substantial violation of the  
555 Public Health Code, or any other applicable state statutes, or Title XVIII  
556 or XIX of the federal Social Security Act, 42 USC 301, as amended, or any  
557 regulation adopted pursuant to such state or federal laws.

558 Sec. 11. Section 19a-547 of the general statutes is repealed and the  
559 following is substituted in lieu thereof (*Effective from passage*):

560 (a) The court may appoint any responsible individual whose name is  
561 proposed by the Commissioner of Public Health and the Commissioner  
562 of Social Services to act as a receiver. [For a nursing home facility, such  
563 individual shall be a nursing home facility administrator licensed in the  
564 state of Connecticut with substantial experience in operating  
565 Connecticut nursing homes. For a residential care home, such  
566 individual shall have experience as a residential care home  
567 administrator or, if there is no such individual, such individual shall  
568 have experience in the state similar to that of a residential care home  
569 administrator. The Commissioner of Social Services shall adopt

570 regulations governing qualifications for proposed receivers consistent  
571 with this subsection.] Such individual shall have substantial experience  
572 in the delivery of high-quality health care services and successful  
573 management or operation of long-term care facilities, and have achieved  
574 an educational level or have such licensure as customarily is held by  
575 persons managing or operating health care facilities similar to the  
576 facility or facilities subject to receivership. No state employee or owner,  
577 administrator or other person with a financial interest in the nursing  
578 home facility or residential care home may serve as a receiver for that  
579 nursing home facility or residential care home. No person appointed to  
580 act as a receiver shall be permitted to have a current financial interest in  
581 the nursing home facility or residential care home; nor shall such person  
582 appointed as a receiver be permitted to have a financial interest in the  
583 nursing home facility or residential care home for a period of five years  
584 from the date the receivership ceases.

585 (b) The court may remove such receiver in accordance with section  
586 52-513. A nursing home facility or residential care home receiver  
587 appointed pursuant to this section shall be entitled to a reasonable  
588 receiver's fee as determined by the court. The receiver shall be liable  
589 only in the receiver's official capacity for injury to person and property  
590 by reason of the conditions of the nursing home facility or residential  
591 care home. The receiver shall not be personally liable, except for acts or  
592 omissions constituting gross, wilful or wanton negligence.

593 (c) The court, in its discretion, may require a bond of such receiver in  
594 accordance with section 52-506.

595 (d) The court may require the Commissioner of Public Health to  
596 provide for the payment of any receiver's fees authorized in subsection  
597 (a) of this section upon a showing by such receiver to the satisfaction of  
598 the court that (1) the assets of the nursing home facility or residential  
599 care home are not sufficient to make such payment, and (2) no other  
600 source of payment is available, including the submission of claims in a  
601 bankruptcy proceeding. The state shall have a claim for any court-  
602 ordered fees and expenses of the receiver that shall have priority over

603 all other claims of secured and unsecured creditors and other persons  
604 whether or not such nursing home facility or residential care home is in  
605 bankruptcy, to the extent allowed under state or federal law.

606 Sec. 12. Section 19a-561 of the general statutes is repealed and the  
607 following is substituted in lieu thereof (*Effective from passage*):

608 (a) As used in this section, (1) "nursing facility management services"  
609 means services provided in a nursing facility to manage the operations  
610 of such facility, including the provision of care and services, [and] (2)  
611 "nursing facility management services certificate holder" means a  
612 person or entity certified by the Department of Public Health to provide  
613 nursing facility management services, and (3) "managed facility" means  
614 a nursing facility that receives nursing facility management services  
615 from a nursing facility management services certificate holder.

616 (b) No person or entity shall provide nursing facility management  
617 services in this state without obtaining a certificate from the Department  
618 of Public Health.

619 (c) Any person or entity seeking a certificate to provide nursing  
620 facility management services shall apply to the department, in writing,  
621 on a form and in the manner prescribed by the department. Such  
622 application shall include the following:

623 (1) (A) The name and business address of the applicant and whether  
624 the applicant is an individual, partnership, corporation or other legal  
625 entity; (B) if the applicant is a partnership, corporation or other legal  
626 entity, the names of the officers, directors, trustees, managing and  
627 general partners of the applicant, the names of the persons who have a  
628 [ten] five per cent or greater beneficial ownership interest in the  
629 partnership, corporation or other legal entity, and a description of each  
630 such person's relationship to the applicant; (C) if the applicant is a  
631 corporation incorporated in another state, a certificate of good standing  
632 from the state agency with jurisdiction over corporations in such state;  
633 and (D) if the applicant currently provides nursing facility management  
634 services in another state, a certificate of good standing from the licensing

635 agency with jurisdiction over public health for each state in which such  
636 services are provided;

637 (2) A description of the applicant's nursing facility management  
638 experience;

639 (3) An affidavit signed by the applicant and any of the persons  
640 described in subparagraph (B) of subdivision (1) of this subsection  
641 disclosing any matter in which the applicant or such person (A) has been  
642 convicted of an offense classified as a felony under section 53a-25 or  
643 pleaded nolo contendere to a felony charge, or (B) has been held liable  
644 or enjoined in a civil action by final judgment, if the felony or civil action  
645 involved fraud, embezzlement, fraudulent conversion or  
646 misappropriation of property, or (C) is subject to a currently effective  
647 injunction or restrictive or remedial order of a court of record at the time  
648 of application, or (D) within the past five years has had any state or  
649 federal license or permit suspended or revoked as a result of an action  
650 brought by a governmental agency or department, arising out of or  
651 relating to business activity or health care, including, but not limited to,  
652 actions affecting the operation of a nursing facility, residential care  
653 home or any facility subject to sections 17b-520 to 17b-535, inclusive, or  
654 a similar statute in another state or country; and

655 (4) The location and description of any nursing facility in this state or  
656 another state in which the applicant or a beneficial owner of the  
657 applicant currently provides management services or has provided such  
658 services or is currently or has been the owner, operator or administrator  
659 within the past five years and whether any such facility has been subject  
660 to:

661 (A) Three or more civil penalties imposed through final order of the  
662 commissioner in accordance with the provisions of sections 19a-524 to  
663 19a-528, inclusive, or civil penalties imposed pursuant to the laws or  
664 regulations of another state during the two-year period preceding the  
665 date on which such application is submitted;

666 (B) Sanctions, other than civil penalties less than or equal to twenty

667 thousand dollars, imposed in any state through final adjudication under  
668 the Medicare or Medicaid program pursuant to Title XVIII or XIX of the  
669 federal Social Security Act, 42 USC 301, as amended from time to time;  
670 or

671 (C) Termination or nonrenewal of a Medicare or Medicaid provider  
672 agreement.

673 (d) In addition to the information provided pursuant to subsection (c)  
674 of this section, the department may reasonably request to review the  
675 applicant's audited and certified financial statements, which shall  
676 remain the property of the applicant when used for either initial or  
677 renewal certification under this section.

678 (e) Each application for a certificate to provide nursing facility  
679 management services shall be accompanied by an application fee of  
680 three hundred dollars. The certificate shall list each location at which  
681 nursing facility management services may be provided by the holder of  
682 the certificate. The nursing facility management services certificate  
683 holder shall request the approval of the Department of Public Health to  
684 provide nursing facility management services not later than thirty days  
685 in advance of providing services to a nursing facility not listed on its  
686 certificate. The department may grant said approval subject to  
687 conditions or deny such approval based upon the compliance with state  
688 and federal regulatory requirements by the nursing facilities managed  
689 by the holder of the certificate.

690 (f) The department shall base its decision on whether to issue or  
691 renew a certificate on the information presented and otherwise available  
692 to the department and on the compliance status of the managed  
693 [entities] facilities. The department may deny certification to any  
694 applicant for the provision of nursing facility management services (1)  
695 [at any specific facility or facilities where there has been a substantial  
696 failure to comply with the Public Health Code, or (2)] if the applicant  
697 fails to provide the information required under [subdivision (1) of]  
698 subsection (c) of this section, or (2) if the department determines that the  
699 applicant or a beneficial owner of the applicant has an unacceptable

700 history of past and current compliance with state licensure  
701 requirements, applicable federal requirements and state regulatory  
702 requirements for each licensed health care facility owned, operated or  
703 managed by the applicant or a beneficial owner of the applicant in the  
704 United States or any territory of the United States during the five years  
705 preceding the date on which such application is submitted, as evidenced  
706 by:

707 (A) Any such licensed health care facility being subject to any adverse  
708 action described in subdivision (4) of subsection (c) of this section;

709 (B) Any such licensed health care facility having continuing  
710 violations or a pattern of violations of state licensure standards or  
711 federal certification standards; or

712 (C) Criminal conviction of, or a guilty plea by, an applicant or  
713 beneficial owner of an applicant on or to a charge of fraud, patient or  
714 resident abuse or neglect or a crime of violence or moral turpitude.

715 (g) Renewal applications shall be made biennially after (1)  
716 submission of the information required by subsection (c) of this section  
717 and any other information required by the department, [pursuant to  
718 subsection (d) of this section,] and (2) submission of evidence  
719 satisfactory to the department that any nursing facility at which the  
720 applicant provides nursing facility management services has been and  
721 currently is in substantial compliance with federal regulatory  
722 requirements, the provisions of this chapter, the Public Health Code and  
723 licensing regulations, and (3) payment of a three-hundred-dollar fee.

724 (h) In any case in which the Commissioner of Public Health finds that  
725 there has been a substantial failure by one or more managed facilities to  
726 comply with state licensure requirements, applicable federal  
727 requirements and state regulatory requirements or a substantial failure  
728 by a nursing facility management services certificate holder managing  
729 such facilities to comply with the requirements for such certificate  
730 holder established under this section, the commissioner may initiate and  
731 impose disciplinary action against a nursing facility management

732 services certificate holder pursuant to section 19a-494. If three or more  
733 facilities managed by a nursing facility management services certificate  
734 holder are subject to civil penalties imposed through final order of the  
735 commissioner in accordance with the provisions of sections 19a-524 to  
736 19a-528, inclusive, during a twelve-month period, the commissioner  
737 may impose a civil penalty on the nursing facility management services  
738 certificate holder of not more than twenty thousand dollars. The  
739 procedure for imposition of said penalty shall be in accordance with  
740 subsection (b) of section 19a-494.

741 (i) The department may limit or restrict the provision of management  
742 services by any nursing facility management services certificate holder  
743 against whom disciplinary action has been initiated under subsection  
744 (h) of this section.

745 (j) The department, in implementing the provisions of this section,  
746 may conduct any inquiry or investigation, in accordance with the  
747 provisions of section 19a-498, regarding an applicant or certificate  
748 holder.

749 (k) In any case in which the commissioner finds that there has been a  
750 substantial failure to comply with the requirements established under  
751 this chapter, or regulations adopted thereunder, the commissioner may  
752 require the nursing facility licensee and the nursing facility  
753 management service certificate holder to jointly submit a plan of  
754 correction as described in section 19a-496, as amended by this act. A  
755 plan of correction accepted by the department shall constitute an order  
756 of the department. Violation of such order may be the subject of  
757 disciplinary action against a nursing facility management services  
758 certificate holder pursuant to section 19a-494.

759 (l) Any person or entity providing nursing facility management  
760 services without the certificate required under this section shall be  
761 subject to a civil penalty of not more than one thousand dollars for each  
762 day that the services are provided without such certificate.



This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-521b
Sec. 2	<i>July 1, 2024</i>	19a-533
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	17b-357
Sec. 5	<i>from passage</i>	19a-496(b)
Sec. 6	<i>from passage</i>	19a-700
Sec. 7	<i>July 1, 2024</i>	19a-694
Sec. 8	<i>July 1, 2024</i>	19a-564(e)
Sec. 9	<i>from passage</i>	17b-99a
Sec. 10	<i>from passage</i>	19a-543
Sec. 11	<i>from passage</i>	19a-547
Sec. 12	<i>from passage</i>	19a-561

**Statement of Legislative Commissioners:**

In Section 7(b), "subdivision (7)" was changed to "subdivision [(7)] (9)" for accuracy.

**APP**      *Joint Favorable Subst.*

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 25 \$	FY 26 \$
Social Services, Dept.	GF - Potential	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

**Section 1** establishes a Class B violation under CGA Sec. 19a-527, which results in a potential minimal General Fund revenue gain starting 7/1/26 to the extent that violations occur, nursing homes are issued civil penalties by the Department of Public Health (DPH), and associated fines are collected. For each violation, a civil penalty of not more than \$10,000 may be imposed. A new violation occurs each day that a nursing home fails to comply.

**Section 9** may result in a fiscal impact to the Department of Social Services (DSS) associated with forensic audits and related potential civil monetary penalties on certain facilities. The bill specifies that forensic audits may be conducted by DSS, the costs for which the audited facility would be liable. The bill also subjects facilities to civil penalties of up to \$3,250 per day until the facility cooperates. DSS may (1) recover such costs and penalties through reduced Medicaid payments otherwise due to impacted facilities, or (2) receive reimbursement for audit costs and collect civil penalties and reflect an associated revenue gain.

The bill makes various other changes that are not anticipated to result

in a fiscal impact to the state.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

---

**OLR Bill Analysis****sHB 5046****AN ACT PROMOTING NURSING HOME RESIDENT QUALITY OF LIFE.**

## TABLE OF CONTENTS:

SUMMARY§ 1 — NURSING HOME ROOM CAPACITY LIMITATIONS

*Prohibits each licensed chronic and convalescent nursing home and rest home with nursing supervision from placing residents in a room containing more than two beds*

§ 2 — NURSING HOME WAITING LIST AND TRANSFERS

*Requires nursing homes, without regard for the waiting list, to admit transferring residents from a nursing home that is closing; generally exempts from this requirement homes with no more than 30% self-pay patients if the transferring patient is indigent*

§ 3 — DISCONTINUATION OF REST HOME WITH NURSING SUPERVISION LICENSES

*Prohibits the DPH commissioner from granting new rest home with nursing supervision licenses*

§ 4 — NURSING FACILITIES AND STATE ENFORCEMENT AUTHORITY

*Extends certain existing procedures and penalties for nursing home violations of federal law to violations of state laws or regulations*

§ 5 — PENALTIES FOR HEALTHCARE INSTITUTIONS FAILING TO COMPLY WITH CORRECTIVE ACTION PLANS

*Subjects DPH-licensed healthcare institutions to potential disciplinary action for failing to comply with an accepted plan of corrective action*

§§ 6 & 7 — MANAGED RESIDENTIAL COMMUNITY RESIDENCY AGREEMENTS AND FEES

*Requires MRCs to (1) include information in written residency agreements on how they may adjust monthly or other recurring fees; (2) give residents, or their representatives, 90 days' notice of any fee increases; and (3) give residents prorated or full refunds of certain fees if the facility cannot meet the resident's needs within the first 45 days of occupancy*

§ 8 — ALSA FEES

*Requires ALSAs to (1) disclose fee increases to residents or their representatives at least 60 days before they take effect and (2) upon request, give them the history of fee increases over the past three years*

---

**§ 9 — FORENSIC AUDITS OF LONG-TERM CARE FACILITIES**

*Requires long-term care facilities potentially experiencing serious financial losses to be liable for the costs of any forensic audit by DSS and subjects them to civil penalties for failure to cooperate*

**§§ 10 & 11 — APPOINTMENT OF RECEIVERS OF NURSING HOMES OR RESIDENTIAL CARE HOMES**

*Requires nursing home or residential care home receiver applications to be granted if the facility sustains any type of serious financial loss or failure and updates the criteria for who may be appointed as a receiver of these facilities*

**§ 12 — NURSING FACILITY MANAGEMENT SERVICES**

*Requires each entity seeking a nursing facility management certificate to disclose additional information in its application, revises the criteria upon which DPH can base its certificate issuance decisions, and expands the penalties and grounds upon which DPH can impose disciplinary action against these certificate holders*

**BACKGROUND****SUMMARY**

This bill makes changes related to the management and oversight of long-term care and similar licensed facilities. For example, it:

1. prohibits nursing homes from placing residents in a room containing more than two beds, for newly admitted residents starting July 1, 2025, and for all residents one year after that (§ 1);
2. phases out the license category of rest homes with nursing supervision (§ 3);
3. authorizes the Department of Public Health (DPH) to impose disciplinary action on licensed health care institutions that fail to comply with a plan of correction accepted by the department (§ 5); and
4. explicitly authorizes the Department of Social Services (DSS) to conduct forensic audits and makes facilities liable for the cost of these audits (§ 9).

The bill also makes various minor, technical, and conforming changes.

---

EFFECTIVE DATE: Upon passage, unless otherwise specified below.

## § 1 — NURSING HOME ROOM CAPACITY LIMITATIONS

*Prohibits each licensed chronic and convalescent nursing home and rest home with nursing supervision from placing residents in a room containing more than two beds*

The bill prohibits each licensed chronic and convalescent nursing home and rest home with nursing supervision (nursing home) from placing newly admitted residents in a room containing more than two beds beginning on July 1, 2025. It also prohibits any resident room at a nursing home from containing more than two beds beginning on July 1, 2026.

A violation is a class B violation and may result in a civil penalty of up to \$10,000. A new violation occurs each day that a nursing home fails to comply with this section and an additional penalty may be assessed.

## § 2 — NURSING HOME WAITING LIST AND TRANSFERS

*Requires nursing homes, without regard for the waiting list, to admit transferring residents from a nursing home that is closing; generally exempts from this requirement homes with no more than 30% self-pay patients if the transferring patient is indigent*

Under existing law and subject to certain exceptions, nursing homes receiving state funds for providing care for the indigent must admit applicants on a first-come, first-served basis and cannot discriminate against indigent applicants based on their source of payment.

Under one existing exception, a nursing home with 30% or fewer self-pay residents is not required to admit an indigent person on a waiting list when a bed becomes available in the next six months, as long as a bed is not held open for more than 30 days. A home taking advantage of this waiver must notify DSS and the regional long-term care ombudsman on a quarterly basis. The bill specifically requires the home to notify these entities on the date the exemption began and quarterly thereafter.

Under current law, nursing homes are authorized to admit transferring residents from a nursing home that was closing without regard for the waiting list. The bill makes this mandatory, with one exception (see below). This specifically applies to applicants wishing to

transfer from a nursing home (1) that is closing or (2) in which they were placed after the nursing home where they previously resided closed (or for homes in receivership, was anticipated to close).

Under the bill, nursing homes that qualify for the waiting list exemption described above (i.e., homes with no more than 30% self-pay patients) are not required to admit indigent people who are transferring under these provisions except when they are being transferred from a nursing home that is closing due to an emergency.

EFFECTIVE DATE: July 1, 2024

### **§ 3 — DISCONTINUATION OF REST HOME WITH NURSING SUPERVISION LICENSES**

*Prohibits the DPH commissioner from granting new rest home with nursing supervision licenses*

The bill prohibits the DPH commissioner from granting new licenses to establish or operate a rest home with nursing supervision. A rest home with nursing supervision is a residential facility that provides intermediate care services to residents. (In practice, nursing homes generally have been phasing out these beds or converting them to chronic and convalescent nursing home beds.)

The DPH commissioner is authorized to approve a one-time license renewal for a duration of one year or less if the applicant follows the existing criteria for renewal. Applicants seeking a one-year license renewal are prohibited from appealing a decision to deny the renewal.

### **§ 4 — NURSING FACILITIES AND STATE ENFORCEMENT AUTHORITY**

*Extends certain existing procedures and penalties for nursing home violations of federal law to violations of state laws or regulations*

Under the bill, if a Medicaid-participating nursing facility is found to be noncompliant with applicable state statutes or regulations during a DPH survey, it is treated the same as being noncompliant with specified federal law under existing procedures.

Under this law, among other things:

1. if DPH finds that this noncompliance poses an imminently serious threat to patient well-being, it must state the charges and request a summary order from DSS, which (if issued) must include termination of Medicaid participation or appointment of a temporary manager and may include other penalties (e.g., having patients transferred to other facilities or civil penalties);
2. if DPH finds that this noncompliance does not pose an immediate threat, it must state the charges and request that DSS impose any of a range of remedies similar to those for imminently serious charges (but none are mandatory); and
3. the facility may request a hearing with DSS within 10 days of the statement of charges or summary order.

Other existing laws, under specified procedures, authorize DPH to impose a range of sanctions on nursing homes that violate applicable state laws or regulations.

#### **§ 5 — PENALTIES FOR HEALTHCARE INSTITUTIONS FAILING TO COMPLY WITH CORRECTIVE ACTION PLANS**

*Subjects DPH-licensed healthcare institutions to potential disciplinary action for failing to comply with an accepted plan of corrective action*

By law, a DPH-licensed health care institution (such as a hospital or nursing home) must submit a correction plan to DPH if the department, after an inspection, issues a notice that the institution was out of compliance with applicable state laws or regulations. DPH may impose disciplinary action on these institutions if they fail to submit a plan of correction meeting the law's requirements.

The bill additionally authorizes DPH to impose disciplinary action on these institutions if they fail to comply with a plan of correction accepted by the department. These actions may only be imposed after a hearing and may include, among other things:

1. revocation or suspension of a license;
2. censure of a licensee;



3. placement of a licensee on probationary status, and the requirement to report regularly to the department on the matters that are the basis of the probation;
4. restricting the acquisition of other facilities for a period set by the commissioner; or
5. issuing an order compelling compliance with applicable laws or regulations of the department.

## **§§ 6 & 7 — MANAGED RESIDENTIAL COMMUNITY RESIDENCY AGREEMENTS AND FEES**

*Requires MRCs to (1) include information in written residency agreements on how they may adjust monthly or other recurring fees; (2) give residents, or their representatives, 90 days' notice of any fee increases; and (3) give residents prorated or full refunds of certain fees if the facility cannot meet the resident's needs within the first 45 days of occupancy*

Existing law requires managed residential communities (MRC) to give each resident a written residency agreement that clearly sets out the resident's and the MRC's rights and responsibilities. The bill modifies the contents of the agreement and establishes notification and reimbursement requirements for certain resident fees.

EFFECTIVE DATE: July 1, 2024, except the provisions on the residency agreements are effective upon passage.

### ***Written Residency Agreement***

The bill adds to the required contents of the agreement the way that MRCs may adjust monthly or other recurring fees, including (1) how often fees may increase, (2) the schedule or specific dates of these increases, and (3) the history of fee increases over the past three calendar years.

Under current law, written residency agreements must include, among other things, a full and fair disclosure of all charges, fees, expenses, and costs to be borne by the resident. The bill specifies that this includes nonrefundable charges, fees, expenses, and costs.

The bill's provisions apply to written residency agreements entered into on and after July 1, 2024.

---

**Fee Notifications and Reimbursement**

The bill requires MRCs to give residents, or their representatives, 90 days' advance notice of any increase in monthly or recurring fees and written disclosure of any nonrefundable charges.

It also requires MRCs to give residents prorated or full reimbursement of certain charges if the MRC determines it can no longer meet the resident's needs during the first 45 days of the resident's occupancy (e.g., prorated first month's rent, prorated community fee, full last month's rent, and full security deposit).

**Background — Related Bill**

sHB 5001, favorably reported by the Aging and Appropriations committees, modifies the contents of MRC residency agreements and related notification and reimbursement requirements in a similar way, effective on and after October 1, 2024, instead of July 1, 2024.

**§ 8 — ALSA FEES**

*Requires ALSAs to (1) disclose fee increases to residents or their representatives at least 60 days before they take effect and (2) upon request, give them the history of fee increases over the past three years*

Existing law requires an assisted living services agency (ALSA) to ensure all services provided individually to clients are fully understood by the client or the client's representative, and that the client or representative is made aware of their cost.

The bill also requires an ALSA to (1) disclose fee increases to the client or representative at least 60 days before they take effect and (2) upon request, give the resident or representative the history of fee increases over the past three calendar years.

The bill specifies that this requirement does not limit an ALSA from immediately adjusting fees if (1) they are directly related to a change in the level of care or services necessary to meet the resident's safety needs at the time of a scheduled resident care meeting or (2) the resident's condition changes, resulting in a required change in services.

EFFECTIVE DATE: July 1, 2024

---

**Background — Related Bill**

sHB 5001, favorably reported by the Aging and Appropriations committees, requires ALSAs to disclose fee increases to residents or their representatives at least 90 days before they take effect and, upon request, to give them the history of fee increases over the past three years, effective October 1, 2024.

**§ 9 — FORENSIC AUDITS OF LONG-TERM CARE FACILITIES**

*Requires long-term care facilities potentially experiencing serious financial losses to be liable for the costs of any forensic audit by DSS and subjects them to civil penalties for failure to cooperate*

Existing law sets procedures and requirements related to DSS audits of long-term care facilities that receive Medicaid or other state payments (including chronic and convalescent nursing homes, chronic disease hospitals associated with them, rest homes with nursing supervision, residential care homes, and certain residential facilities for persons with intellectual disabilities).

The bill explicitly extends these provisions to forensic audits. A “forensic audit” is an examination of financial records for information or evidence which may be used in legal proceedings.

The bill also requires facilities identified by DSS as potentially experiencing a serious financial loss to be liable for the costs of a forensic audit (such as reports or subsequent testimony) if DSS requires them to undergo one. It requires the facilities to fully cooperate with forensic audits and to ensure that their personnel, financial consultants, and accountants also cooperate as necessary. If a facility does not comply with DSS’s written request to cooperate, the facility is subject to a maximum civil penalty of \$3,250 per day until it does. Facilities are may appeal any civil penalties under this section by following DSS’s administrative appeals process.

The bill authorizes DSS to recover the costs of conducting a forensic audit, or these civil penalties, by deducting the amount from Medicaid payments due to be made to the facility.

---

**§§ 10 & 11 — APPOINTMENT OF RECEIVERS OF NURSING HOMES OR RESIDENTIAL CARE HOMES**

*Requires nursing home or residential care home receiver applications to be granted if the facility sustains any type of serious financial loss or failure and updates the criteria for who may be appointed as a receiver of these facilities*

By law, DSS or DPH, or in some cases a facility resident or a resident's representative, may apply to Superior Court for the appointment of a receiver for a nursing home or residential care home under certain circumstances. The bill requires the court to grant the application for a receiver if the facility experiences a serious financial loss or failure. Under current law, this applies only if that financial loss or failure jeopardizes the health, safety, and well-being of patients. Generally, a receiver is a neutral party the court appoints to operate the facility until conditions improve or, in some cases, the facility is ready to be closed.

The bill removes the requirement for a receiver to be a licensed nursing home facility administrator or have experience as a residential care home administrator or something similar, as applicable. It requires candidates to have substantial experience in the delivery of high-quality health care services and management of long-term care facilities; current law does not specifically reference the quality of services. The bill also requires candidates to have a level of education or licensure that is customarily commensurate with people who manage facilities like the one under receivership.

The bill also removes the requirement for DSS to adopt regulations on receiver qualifications.

**§ 12 — NURSING FACILITY MANAGEMENT SERVICES**

*Requires each entity seeking a nursing facility management certificate to disclose additional information in its application, revises the criteria upon which DPH can base its certificate issuance decisions, and expands the penalties and grounds upon which DPH can impose disciplinary action against these certificate holders*

The bill requires nursing facility management services certificate applicants who have beneficial owners to include the name of everyone with a 5% or greater ownership interest in the applying entity and a description of their relationship to the applicant. Under current law, the threshold to disclose a beneficial owner is 10%.

Under existing law, people listed on the application must sign an affidavit disclosing certain information about their criminal history, civil cases, or health care business-related disciplinary actions.

The bill requires applicants to also disclose:

1. the location and description of any nursing facility (in any state) to which a beneficial owner provides, or has provided within the last five years, management services, and
2. if a beneficial owner or applicant owns, operates, or administers a nursing facility, or has within the last five years.

Additionally, the bill requires applicants to disclose if any such nursing facility associated with the applicant or beneficial owner has been subject to any of the following:

1. three or more civil penalties imposed through DPH final orders or by other states within the last two years;
2. Medicare or Medicaid sanctions in any state, other than civil penalties of \$20,000 or less; and
3. nonrenewal or termination of a Medicare or Medicaid provider agreement.

***Providing Nursing Facility Management Services to Facilities Not Listed on the Original Certificate***

The bill requires nursing facility management certificate holders to request the approval of DPH to provide management services to a facility not listed on their certificate at least 30 days before doing so. The department has the discretion to approve the request subject to conditions or deny the request based on the certificate holder's compliance history with state and federal regulatory requirements at the facilities it manages.

***Adjudication of Applications***

The bill requires DPH to base its decision to renew or issue a

certificate on information otherwise available to DPH, in addition to the information submitted to DPH by the applicant and the managed facilities' compliance status as under current law.

The bill expands the conditions under which DPH may deny a nursing facility management certificate. Current law allows DPH to do so based on the substantial failure to comply with the Public Health Code. The bill instead allows DPH to deny issuing a certificate if the applicant or a beneficial owner has an evidentially demonstrable unacceptable history of compliance with (1) state licensure requirements; (2) federal requirements; and (3) state regulatory requirements for each licensed health care facility owned, operated, or managed by the applicant or beneficial owner in the United States in the five years before the application.

The bill states that an unacceptable history of compliance can be evidenced by:

1. licensed health care facilities being subject to the adverse actions described above that must be listed on the application (e.g., three or more civil penalties);
2. licensed health care facilities having continuing violations, or a pattern of violations, of state licensure standards or federal certification standards; or
3. the criminal conviction or guilty pleas by an applicant or beneficial owner to charges of fraud, patient or resident abuse or neglect, or a crime of violence or moral turpitude.

Under existing law, unchanged by the bill, DPH can also deny an application based on the facility's failure to provide required information.

The bill requires renewal applicants to submit satisfactory evidence that any nursing facilities that the applicant provides management services to is in substantial compliance with federal regulatory requirements. As under existing law, the applicant must also submit

evidence that they are in substantial compliance with existing state law, the Public Health Code, and licensing regulations, in addition to any other information DPH requires. The bill also specifies that the applicant must show a history of past compliance.

### ***Disciplinary Action for Failing to Comply With State and Federal Requirements***

Existing law authorizes DPH to impose disciplinary action (e.g., suspension or revocation of the certificate) on a nursing facility management services certificate holder for substantial failure to comply with statutory requirements. The bill specifically authorizes DPH to also impose discipline on them if, at any of the facilities they manage, there is a substantial failure to comply with state licensure requirements, state regulatory requirements, or federal requirements.

The bill also authorizes DPH, after a hearing, to impose a civil penalty on a nursing home facility management certificate holder of \$20,000 or less if three or more facilities managed by the certificate holder are subject to civil penalties imposed by DPH during a 12-month period.

Under existing law, DPH may require a certificate holder and the nursing facility licensee to submit a plan of corrective action to DPH when the commissioner finds there has been a substantial failure to comply with requirements applicable to nursing home facility management certificate holders. Under the bill, a plan of correction accepted by DPH is an order of the department, and violations of these orders can result in disciplinary action against the certificate holder. Disciplinary actions can include, among other things, the suspension or revocation of the certificate.

## **BACKGROUND**

### ***Legislative History***

The House referred the bill (File 146) to the Appropriations Committee, which reported out a substitute that eliminated provisions requiring the Department of Public Health to establish a nursing home center of excellence program and an online nursing home consumer

report card.

**COMMITTEE ACTION**

Aging Committee

Joint Favorable

Yea 15 Nay 0 (03/12/2024)

Judiciary Committee

Joint Favorable

Yea 24 Nay 11 (04/05/2024)

Appropriations Committee

Joint Favorable Substitute

Yea 52 Nay 0 (04/15/2024)