



PA 24-122—sHB 5293
Public Health Committee
Housing Committee

AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES' RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO DEVELOPMENTAL SERVICES STATUTES

SUMMARY: This act makes various changes to Department of Developmental Services (DDS)-related statutes. Principally, it:

1. codifies existing practice by establishing an Oral Health and Dental Services Unit within DDS's Health and Clinical Services Division, and allows DDS to contract with dentists or provisionally licensed dentists for this purpose;
2. modifies a recently enacted grant program for providers of supportive housing for people with developmental disabilities, such as by (a) shifting primary responsibility for the program from DDS to the Department of Housing (DOH) and (b) expanding the types of entities eligible for program assistance;
3. removes the statutory cap of 11 DDS self-advocate coordinators;
4. updates and revises the law on transfers from DDS-operated or -funded residential facilities, such as by authorizing DDS to temporarily transfer residents for up to 90 days during certain emergency situations;
5. codifies existing practice by establishing in law a human rights committee and program review committee within each DDS service region and the Southbury Training School;
6. makes information in DDS's abuse and neglect registry available to the Office of Labor Relations to determine whether an applicant for employment with DDS or certain other state agencies appears on the registry;
7. specifically names the DDS ombudsperson office as the "Office of the Developmental Services Ombudsperson";
8. updates notice requirements related to intermediate care facilities for individuals with intellectual disability (ICF/IIDs) concerning the certificate of need (CON) process, such as by requiring facility closure notices to go to the Office of the Developmental Services Ombudsperson rather than the Office of the Long-Term Care Ombudsman, and requiring the ombudsperson's office to hold informational sessions on these closures (the act does not change the underlying CON requirements); and
9. allows DDS to share information with certain entities if a DDS-licensed community living arrangement's (i.e., group home) or community companion home's license was revoked or surrendered because of substantiated abuse or neglect during the licensure period.

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The act also makes minor, technical, and conforming changes.
EFFECTIVE DATE: Upon passage, except the provisions on residential transfers (§§ 7 & 8) take effect July 1, 2024, and those on the supportive housing assistance program (§ 3) take effect October 1, 2024.

§§ 1 & 2 — ORAL HEALTH AND DENTAL SERVICES UNIT

The act codifies existing practice by establishing an Oral Health and Dental Services Unit within DDS's Health and Clinical Services Division. Under the act, the unit must:

1. support people with intellectual disability by helping them reach and maintain their optimal oral health;
2. provide them access to oral and dental health care;
3. educate them, their families, and support staff on oral disease prevention and early detection, and give all these people oral health and dental information; and
4. participate in oral health-related research and education.

The act allows the Oral Health and Dental Services Unit to provide dental care services to people with intellectual disability at designated dental offices in any DDS service region. These services must be (1) specialized and individualized to meet their needs and (2) provided under the scope of practice of a dentist or dental hygienist.

Under the act, the DDS commissioner may contract with (1) licensed dentists or (2) dentists with provisional licenses (see below) to carry out the unit's duties.

Provisional Licenses (§ 2)

Existing law allows for provisional licensure for an in-state dental school's full-time faculty member who is not licensed in Connecticut but who is licensed in another state or has exceptional qualifications, upon approval by the state Dental Commission. Under prior law, the provisional license allowed dental practice only at the dentistry school where the person is a faculty member or its affiliated hospitals. The act additionally allows dental practice under this provisional license in DDS's Oral Health and Dental Services Unit.

§ 3 — SUPPORTIVE HOUSING ASSISTANCE PROGRAM

PA 23-137, § 53, required the DDS commissioner to give grants to private nonprofits for supportive housing for people with an intellectual disability or other developmental disabilities, including autism spectrum disorder (ASD).

This act makes several changes to this program. It transfers to the DOH commissioner the responsibility to provide assistance under the program in consultation with the DDS commissioner and makes related conforming changes. For example, it requires (1) the DOH commissioner, rather than the DDS commissioner, to develop program guidelines and an application form, and extends from July 1, 2024, to October 1, 2024, the deadline for these materials to be posted

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online; (2) recipients of program assistance to annually report to DOH rather than DDS; and (3) DOH, rather than DDS, to annually report to specified legislative committees on the program.

The act expands the allowable assistance under the program to include deferred loans. It targets the assistance to eligible developers (e.g., nonprofit corporations, housing construction businesses meeting certain requirements, housing authorities, or municipal developers), rather than only nonprofit organizations, for this supportive housing. It also requires an eligible developer to have partnered with a DDS-qualified provider or a provider approved to offer services supporting people receiving services under the Department of Social Services' (DSS) ASD Medicaid waiver program.

Prior law required DDS, when providing assistance under the program, to prioritize nonprofits that reserved at least 50% of a housing site's initial residential capacity for people with these disabilities who were on a supportive housing waiting list DDS or DSS maintains. The act instead requires DOH to prioritize developers that reserve up to 25% of the initial residential capacity for people with these disabilities on a waiting list or who wish to move from a more structured setting to supportive housing.

§§ 4-6 — DDS SELF-ADVOCATE COORDINATORS

The act removes the statutory cap of 11 DDS self-advocates in a general worker position who are eligible for specified sick, vacation, and personal leave and holiday pay benefits. In practice, these positions are self-advocate coordinators.

§§ 7-8 & 15 — RESIDENT TRANSFERS

By law, the DDS commissioner may assign someone with intellectual disability to a public or state-supported private residential facility based on certain eligibility criteria. The act removes the requirement that the commissioner consider the recommendations of a properly designated diagnostic agency before making these assignments.

It also updates and revises the law on transfers between these residential facilities. The law generally requires DDS to give at least 10 days' prior notice before transferring a facility resident. Existing law allows an exception for emergency transfers, for which notice must be provided within 10 days after the transfer. The act also allows this post-transfer notice, rather than prior notice, for medical transfers.

The act specifies that for all transfers, including those for emergencies or medical reasons, adult residents of these facilities or residents' legal representatives have the right to request a hearing if they object to a transfer. Prior law (1) had conflicting provisions on the right to request a hearing to contest an emergency transfer and (2) did not allow objections to a medical transfer.

The act also creates a process for temporary emergency transfers, as explained below.

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Temporary Emergency Transfers

The act sets standards and procedures for temporary transfers, without prior notice, due to emergencies or during a declared public health emergency.

Specifically, it allows the DDS commissioner to temporarily transfer anyone from a DDS-operated or state-supported residential facility if he determines that an emergency in the facility must be addressed immediately, including when the facility is left uninhabitable due to a natural disaster, utility malfunction, or temporary concerns with the facility staff's ability to meet resident needs. These transfers remain in place for up to 90 days or until the commissioner rescinds them, whichever is earlier.

The act also allows the commissioner, during a governor-declared public health emergency, to request that the governor issue an executive order authorizing the commissioner to temporarily transfer any residents of these facilities for reasons of health or safety. If the governor issues the order, the commissioner may make temporary transfers as he deems necessary, and the transfers stay in place until the commissioner rescinds them or the order expires, whichever is earlier.

In either case, the commissioner must notify the person and the person's legal representative (if any) in writing about the temporary transfer as soon as practicable, but no later than 10 days after the transfer. The person cannot object and request a hearing until the 30th day of the transfer, and the hearing follows existing procedures and standards.

§§ 9-11 — HUMAN RIGHTS AND PROGRAM REVIEW COMMITTEES

The act codifies existing practice by establishing in law a human rights committee and program review committee within each DDS service region and the Southbury Training School. The respective regional or training school director appoints the committees' members.

Under the act, the human rights committees must:

1. advise and make recommendations to these directors and the DDS commissioner on best practices and
2. address concerns and complaints on human rights issues involving people receiving DDS services, including those involving aversive procedures (see below), restrictive interventions, intrusive programs or devices, restitution, and pre-sedation medication.

The program review committees must advise the directors and commissioner on best practices for reviewing plans that include things like behavior support strategies, use of psychotropic and behavior modifying medications, and use of restraints for people receiving DDS services.

For each type of committee, the act (1) requires the commissioner to establish uniform responsibilities and procedures and (2) allows him to adopt implementing regulations.

Human Rights Committee Recommendations on Aversive Procedures (§ 11)

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Existing law prohibits using aversive procedures on anyone placed or treated under the DDS commissioner's direction, except under procedures established by the commissioner. The act additionally specifies that these procedures may occur only in line with recommendations from a regional human rights committee.

By law, an "aversive procedure" is the contingent use of an event that may be unpleasant, noxious, or otherwise cause discomfort and is designed to change a specific behavior or to protect someone from injuring himself, herself, or others. It can include the use of physical isolation and mechanical and physical restraints.

§ 12 — ABUSE AND NEGLECT REGISTRY

By law, DDS maintains a registry of certain former employees who left or were fired from their jobs because of a substantiated abuse or neglect complaint against them. These are people who were employed by DDS, or an agency, organization, or person DDS licenses or funds. The information is available only to certain agencies and employers for specified purposes.

The act additionally makes information in the registry available to the state's Office of Labor Relations for determining whether an applicant for employment with certain state agencies appears on the registry. Specifically, this applies to applicants at DDS or the departments of Children and Families (DCF), Mental Health and Addiction Services (DMHAS), and DSS. Existing law already grants these other agencies and the Department of Administrative Services (DAS) access to the registry to determine whether applicants appear on it.

§ 13 — OMBUDSPERSON OFFICE

By law, an independent ombudsperson office within DDS receives complaints affecting people under the care of DDS or agencies with whom the department contracts for services and recommends to the commissioner ways to resolve these complaints. The act specifically names this office as the "Office of the Developmental Services Ombudsperson."

§ 14 — ICF/IID CON-RELATED NOTICES

By law, long-term care facilities, including Medicaid-certified ICF/IIDs, generally must seek certificate of need (CON) approval from DSS before undertaking certain activities (e.g., introducing new services or eliminating services). In several cases, the law requires the facility to also give related notices to certain other state entities.

The act updates these notice requirements for ICF/IIDs, generally requiring them to notify the Office of the Developmental Services Ombudsperson rather than the Office of the Long-Term Care Ombudsman. Correspondingly, it requires the former, rather than the latter, office (in some cases, along with other agencies) to take certain actions in response. Generally, these notices and related actions are as follows:

1. facility notice of intended (a) pre-licensure ownership transfers, (b) new or

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- expanded functions or services, (c) service terminations or substantial decreases in licensed bed capacity, or (d) bed relocations to a different facility;
2. facility notice of closure petition;
 3. informational letter on patient rights (for patients and certain other parties) by the ombudsperson's office and the Department of Aging and Disability Services (ADS) that must accompany the closure notice;
 4. informational session on the potential closure held by the ombudsperson's office and the Department of Public Health;
 5. facility notice when submitting a letter of intent before filing a CON application; and
 6. informational letter on patient rights by the ombudsperson's office and ADS that must accompany a letter of intent on potential service terminations or substantial decreases in bed capacity.

§ 16 — INFORMATION SHARING ON ABUSE OR NEGLECT AT GROUP HOMES OR COMMUNITY COMPANION HOMES

The act allows DDS to share information with certain entities if a DDS-licensed community living arrangement's (i.e., group home) or community companion home's license was revoked or surrendered because of substantiated abuse or neglect during the licensure period. (Community companion homes offer a family-like setting for people with intellectual disability when circumstances make it difficult for the person to live with his or her family.)

Specifically, the act allows the DDS commissioner to release the former licensee's name, license revocation or surrender date, and type of abuse or neglect to the following entities:

1. authorized agencies (i.e., agencies authorized to conduct abuse and neglect investigations and responsible for issuing or carrying out protective services for people with intellectual disability), for determining protective services;
2. employers of people providing services to those receiving DDS services or support; and
3. DCF, DMHAS, DSS, and DAS, to make a determination on an employment application or provider licensure or certification with DCF, DMHAS, DSS, or DDS. (In practice, DAS generally oversees human resources functions for executive branch agencies.)