



General Assembly

February Session, 2024

Governor's Bill No. 5046

LCO No. 589



Referred to Committee on AGING

Introduced by:

Request of the Governor
Pursuant to Joint Rule 9

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 Section 19a-521b of the general statutes is repealed and the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. (NEW) (*Effective July 1, 2024*) (a) As used in this section: (1)
24 "Center of Excellence" means a nursing home licensed under section
25 19a-491 of the general statutes that provides services that are consistent
26 with evidence-based best practices for the delivery of person-centered
27 care; (2) "Centers of Excellence Program" means a program that sets the
28 standards for a nursing home to be designated as a Center of Excellence;
29 and (3) "nursing home" has the same meaning as provided in section
30 19a-490 of the general statutes.

31 (b) The Commissioner of Public Health shall design a state-wide
32 Centers of Excellence Program to provide incentives to licensed nursing
33 homes that provide services consistent with evidence-based best
34 practices for the delivery of person-centered care.

35 (c) When designing the program, the Commissioner of Public Health
36 shall:

37 (1) Study the extent to which a Centers of Excellence Program may
38 improve the quality of care provided at nursing homes and what the
39 best practices are in other similar programs nation-wide; and

40 (2) Consult with (A) nursing home owners and operators; (B)
41 hospitals; (C) nursing home residents and their advocates; (D) the Office
42 of the Long-Term Care Ombudsman; (E) the Commissioner of Social
43 Services, or the commissioner's designee; (F) the Secretary of the Office
44 of Policy and Management, or the secretary's designee; and (G) other
45 relevant stakeholders as deemed necessary by the Commissioner of
46 Public Health.

47 (d) The design of the program shall, at a minimum, (1) identify
48 evidence-based qualitative and quantitative standards for delivery of
49 person-centered care a nursing home must meet to be designated as a
50 Center of Excellence; (2) identify for each standard the measure or
51 measures nursing homes must meet to qualify as a Center of Excellence;
52 (3) identify a pathway through application, inspection or other means
53 by which a nursing home may be designated as a Center of Excellence;
54 (4) create a mechanism to designate nursing homes that meet or exceed
55 the standards and qualify as a Center of Excellence; (5) determine
56 potential incentives to nursing homes that meet the standards set for the
57 Centers of Excellence Program; and (6) identify ways to maximize the
58 use of available federal funding to support the Centers of Excellence
59 Program.

60 (e) The Centers of Excellence Program shall be designed as a
61 voluntary program. No nursing home shall be required to participate in
62 said program, and nursing homes that choose not to participate shall
63 not be penalized by the state.

64 (f) When developing the program, the Commissioner of Public
65 Health may, within available appropriations, engage a consultant to
66 identify best practices and design the Centers of Excellence Program.

67 (g) Upon completion of designing the Centers of Excellence Program,
68 or not later than January 1, 2026, the Commissioner of Public Health
69 shall report to the Secretary of the Office of Policy and Management on
70 the plan developed.

71 (h) The Commissioner of Social Services may seek approval of an
72 amendment to the state Medicaid plan or a waiver from federal law to
73 provide incentives for the Centers of Excellence Program designees. The
74 commissioner shall develop the incentives in a time frame and manner
75 to ensure that such incentives do not duplicate other applicable federal
76 or state funding.

77 Sec. 3. (NEW) (*Effective July 1, 2024*) The Department of Public Health,
78 in consultation with the Office of the Long-Term Care Ombudsman and

79 the Long-Term Care Advisory Council, shall establish an online nursing
80 home consumer report card, within available appropriations, that
81 provides: (1) Comprehensive information concerning quality of care for
82 people in need of nursing home care and their families; and (2)
83 showcases industry leading practices. The department shall include a
84 link to the report in a prominent place on the department's Internet web
85 site.

86 Sec. 4. Section 19a-533 of the general statutes is repealed and the
87 following is substituted in lieu thereof (*Effective July 1, 2024*):

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

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

97 (1) Be prohibited from discriminating against indigent persons who
98 apply for admission to such facility on the basis of source of payment.
99 Except as otherwise provided by law, all applicants for admission to
100 such facility shall be admitted in the order in which such applicants
101 apply for admission. Each nursing home shall (A) provide a receipt to
102 each applicant for admission to its facility who requests placement on a
103 waiting list stating the date and time of such request, and (B) maintain
104 a dated list of such applications which shall be available at all times to
105 any applicant, his bona fide representative, authorized personnel from
106 the Departments of Public Health and Social Services and such other
107 state agencies or other bodies established by state statute whose
108 statutory duties necessitate access to such lists. If a nursing home desires
109 to remove the name of an applicant who is unresponsive to facility
110 telephone calls and letters from its waiting list, the nursing home may,

111 no sooner than ninety days after initial placement of the person's name
112 on the waiting list, inquire by letter to such applicant and any one
113 person if designated by such applicant whether the applicant desires
114 continuation of his name on the waiting list. If the applicant does not
115 respond and an additional thirty days pass, the facility may remove
116 such applicant's name from its waiting list. A nursing home may
117 annually send a waiting list placement continuation letter to all persons
118 on the waiting list for at least ninety days to inquire as to whether such
119 person desires continuation of his name on the waiting list, provided
120 such letter shall also be sent to any one person if designated by such
121 applicant. If such person does not respond and at least thirty days pass,
122 the facility may remove the person's name from its waiting list. Indigent
123 persons shall be placed on any waiting list for admission to a facility and
124 shall be admitted to the facility as vacancies become available, in the
125 same manner as self-pay applicants, except as provided in subsections
126 (f) and (g) of this section;

127 (2) Post in a conspicuous place a notice informing applicants for
128 admission that the facility is prohibited by statute from discriminating
129 against indigent applicants for admission on the basis of source of
130 payment. Such notice shall advise applicants for admission of the
131 remedies available under this section and shall list the name, address
132 and telephone number of the ombudsman who serves the region in
133 which the facility is located;

134 (3) Be prohibited from requiring that an indigent person pay any sum
135 of money or furnish any other consideration, including but not limited
136 to the furnishing of an agreement by the relative, conservator or other
137 responsible party of an indigent person which obligates such party to
138 pay for care rendered to an indigent person as a condition for admission
139 of such indigent person;

140 (4) Record in the patient roster, maintained pursuant to the Public
141 Health Code, or in a separate roster maintained for this purpose, the
142 number of patients who are Medicare, Medicaid and private pay
143 patients on each day. Such numbers shall be recorded daily and made

144 available, upon request, to the state or regional ombudsman.

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

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

154 (e) Prior to imposing any sanction, the Department of Social Services
155 shall notify the nursing home of the alleged violation and the
156 accompanying sanction, and shall permit such facility to request an
157 administrative hearing, in accordance with sections 4-176e to 4-181a,
158 inclusive. A facility shall request such hearing within fifteen days of
159 receipt of the notice of violation from the Department of Social Services.
160 The department shall stay the imposition of any sanction pending the
161 outcome of the administrative hearing.

162 (f) A nursing home with a number of self-pay residents equal to or
163 less than thirty per cent of its total number of residents shall not be
164 required to admit an indigent person on a waiting list for admission
165 when a vacancy becomes available during the subsequent six months,
166 provided (1) no bed may be held open for more than thirty days, [Each
167 such nursing home meeting the conditions for such waiver shall on a
168 quarterly basis notify] and (2) the nursing home notifies the
169 Commissioner of Social Services and the regional nursing home
170 ombudsman office [of] on the date on which such six-month period of
171 [waiver began] waiting list exemption began and thereafter on a
172 quarterly basis if the conditions for exemption still apply.

173 (g) A nursing home shall not be required to admit an indigent person
174 on a waiting list for admission when a vacancy becomes available if the
175 vacancy is in a private room.

176 (h) Notwithstanding the provisions of this section, a nursing home
177 [may] shall, without regard to the order of its waiting list, admit an
178 applicant who (1) seeks to transfer from a nursing home that is closing,
179 or (2) seeks to transfer from a nursing home in which the applicant was
180 placed following the closure of the nursing home where such applicant
181 previously resided or, in the case of a nursing home placed in
182 receivership, the anticipated closure of the nursing home where such
183 applicant previously resided, provided (A) the transfer occurs not later
184 than sixty days following the date that such applicant was transferred
185 from the nursing home where he or she previously resided, and (B)
186 except when the nursing home that is closing transferred the resident
187 due to an emergency, the applicant submitted an application to the
188 nursing home to which he or she seeks admission at the time of the
189 applicant's transfer from the nursing home where he or she previously
190 resided. A nursing home that qualifies for a waiting list exemption
191 pursuant to subsection (f) of this section shall not be required to admit
192 an indigent person under this subsection except when the resident is
193 being transferred from a nursing home that is closing due to an
194 emergency.

195 Sec. 5. (NEW) (*Effective from passage*) The Commissioner of Public
196 Health shall not grant any new license to establish, conduct or operate a
197 rest home with nursing supervision on and after the effective date of
198 this section. Notwithstanding the provisions of this section, the
199 commissioner may, upon application by a rest home with nursing
200 supervision, approve a one-time renewal for not more than one year of
201 a license that expires on or after the effective date of this section,
202 provided the rest home is in compliance with the requirements for such
203 renewal. The denial of such a renewal shall not be subject to an appeal
204 under section 19a-501 of the general statutes.

205 Sec. 6. Section 17b-357 of the general statutes is repealed and the
206 following is substituted in lieu thereof (*Effective from passage*):

207 (a) For purposes of this section and sections 17b-358 to 17b-360,
208 inclusive, a "nursing facility" means a chronic and convalescent home or

209 a rest home with nursing supervision as defined in section 19a-521,
210 which participates in the Medicaid program through a provider
211 agreement with the Department of Social Services.

212 (b) If the Department of Public Health finds, through the results of a
213 survey, that a nursing facility is not in compliance with one or more of
214 the requirements of Subsections (b), (c) and (d) of 42 USC 1396r, or the
215 requirements of applicable state statutes or regulations, and that such
216 noncompliance poses an immediate and serious threat to patient health
217 or safety, the Department of Public Health shall issue a statement of
218 charges to the facility and shall file a copy of the charges with the
219 Department of Social Services with a request for a summary order from
220 the Department of Social Services. The summary order which the
221 Department of Social Services may issue shall include termination of the
222 facility's participation in Medicaid or appointment of a temporary
223 manager to oversee the operation of the facility and may include
224 transfer of patients to other participating facilities; denial of payment
225 under Medicaid for new admissions; imposition of a directed plan of
226 correction of the facility's deficiencies; imposition of civil monetary
227 penalties; or imposition of other remedies authorized by regulations
228 adopted by the Department of Social Services in accordance with
229 chapter 54.

230 (c) If the Department of Public Health finds, through the results of a
231 survey, that a nursing facility is not in compliance with one or more of
232 the requirements of Subsections (b), (c) and (d) of 42 USC 1396r, or the
233 requirements of applicable state statutes or regulations, but that such
234 noncompliance does not pose an immediate and obvious threat to
235 patient health or safety, the Department of Public Health shall issue a
236 statement of charges to the facility and shall file a copy of the charges
237 with the Department of Social Services with a request for an order
238 imposing one or more alternative remedies under this subsection. If the
239 Department of Social Services finds, based on a statement of charges
240 filed by the Department of Public Health, that a nursing facility is not in
241 compliance with one or more of the requirements of Subsections (b), (c)
242 and (d) of 42 USC 1396r, or the requirements of applicable state statutes

243 or regulations, but does not issue a summary order, it may impose one
244 or more of the following alternative remedies: Termination of the
245 facility's participation in Medicaid; appointment of a temporary
246 manager to oversee the operation of the facility; transfer of patients to
247 other participating facilities; denial of payment under Medicaid for new
248 admissions; imposition of a directed plan of correction of the facility's
249 deficiencies; imposition of civil monetary penalties; or imposition of
250 other remedies authorized by regulations adopted by the Department
251 of Social Services in accordance with chapter 54. The civil monetary
252 penalties imposed may be in the range of three thousand two hundred
253 fifty dollars to ten thousand dollars per day for each day the facility is
254 found to be out of compliance with one or more requirements of
255 Subsections (b), (c) and (d) of 42 USC 1396r if the failure to comply with
256 such requirements is found to constitute an immediate and serious
257 threat to resident health or safety, or in the range of two hundred dollars
258 to three thousand dollars per day for each day the facility is found to be
259 out of compliance with a requirement of Subsections (b), (c) and (d) of
260 42 USC 1396r that is found not to constitute an immediate and serious
261 threat to resident health or safety. The exact civil monetary penalty will
262 be set depending on such factors as the existence of repeat deficiencies
263 or uncorrected deficiencies and the overall compliance history of the
264 provider. The remedies available to the Department of Social Services
265 for violations of the requirements of Subsections (b), (c) and (d) of 42
266 USC 1396r are cumulative and are in addition to the remedies available
267 to the Department of Public Health under chapter 368v for violations of
268 state licensure requirements. Any penalties collected by the Department
269 of Social Services pursuant to this section shall be deposited in a special
270 fund under the control of the Department of Social Services, which fund
271 shall be utilized, in the discretion of the department, for the protection
272 of the health or property of residents of nursing facilities found to be
273 deficient, including payment for the costs of relocating residents,
274 payment for the maintenance of operation of a facility pending
275 correction of deficiencies or closure, and reimbursement of residents for
276 personal funds lost. The deficient nursing facility shall be obligated to
277 reimburse the Department of Social Services for any moneys expended

278 by the department at the facility from the fund established pursuant to
279 this section.

280 (d) The facility may request a hearing in accordance with the
281 provisions of chapter 54 from the Department of Social Services within
282 ten days of the issuance of the statement of charges or the summary
283 order, as the case may be. If the facility does not request a hearing within
284 ten days and no summary order has been issued, the Department of
285 Social Services shall automatically adopt the Department of Public
286 Health's findings and shall issue an order incorporating one or more of
287 the remedies authorized by subsection (c) of this section. If the facility
288 timely requests a hearing or the Department of Social Services issues a
289 summary order, the Department of Social Services shall issue a notice of
290 hearing. At such hearing the facility shall be given the opportunity to
291 present evidence and cross-examine witnesses. The Department of
292 Social Services shall issue a decision based on the administrative record
293 and may, if it finds the facility not in compliance with one or more of the
294 requirements of Subsections (b), (c) and (d) of 42 USC 1396r, or the
295 requirements of applicable state statutes or regulations, order any of the
296 remedies specified in this section. The Department of Social Services
297 may impose any of the alternative remedies, except for a civil monetary
298 penalty, during the pendency of any proceedings conducted pursuant
299 to this subsection. In such cases, the Department of Social Services must
300 provide the facility the opportunity to discuss the Department of Public
301 Health's findings at an informal conference prior to the imposition of
302 any remedy. The requirement of an informal conference does not apply
303 to summary order proceedings.

304 Sec. 7. Subsection (b) of section 19a-496 of the general statutes is
305 repealed and the following is substituted in lieu thereof (*Effective from*
306 *passage*):

307 (b) The department may inspect an institution to determine
308 compliance with applicable state statutes and regulations. Upon a
309 finding of noncompliance with such statutes or regulations, the
310 department shall issue a written notice of noncompliance to the

311 institution. Not later than ten business days after such institution
312 receives a notice of noncompliance, the institution shall submit a plan of
313 correction to the department in response to the items of noncompliance
314 identified in such notice. The plan of correction shall include: (1) The
315 measures that the institution intends to implement or systemic changes
316 that the institution intends to make to prevent a recurrence of each
317 identified issue of noncompliance; (2) the date each such corrective
318 measure or change by the institution is effective; (3) the institution's plan
319 to monitor its quality assessment and performance improvement
320 functions to ensure that the corrective measure or systemic change is
321 sustained; and (4) the title of the institution's staff member that is
322 responsible for ensuring the institution's compliance with its plan of
323 correction. The plan of correction shall be deemed to be the institution's
324 representation of compliance with the identified state statutes or
325 regulations identified in the department's notice of noncompliance. The
326 failure of the institution to comply with a plan of correction accepted by
327 the department may be the subject of disciplinary action against the
328 institution pursuant to section 19a-494. Any institution that fails to
329 submit a plan of correction that meets the requirements of this section
330 may be subject to disciplinary action.

331 Sec. 8. Section 19a-700 of the general statutes is repealed and the
332 following is substituted in lieu thereof (*Effective from passage*):

333 A managed residential community shall enter into a written
334 residency agreement with each resident that clearly sets forth the rights
335 and responsibilities of the resident and the managed residential
336 community, including the duties set forth in section 19a-562. The
337 residency agreement shall be set forth in plain language and printed in
338 not less than fourteen-point type. The residency agreement shall be
339 signed by the managed residential community's authorized agent and
340 by the resident, or the resident's legal representative, prior to the
341 resident taking possession of a private residential unit and shall include,
342 at a minimum:

343 (1) An itemization of assisted living services, transportation services,

344 recreation services and any other services and goods, lodging and meals
345 to be provided on behalf of the resident by the managed residential
346 community;

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

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

353 (4) For written residency agreements entered into on and after July 1,
354 2024, the manner in which the managed residential community may
355 adjust monthly fees or other recurring fees, including, but not limited
356 to, (A) how often fee increases may occur, (B) the schedule or specific
357 dates of such increases, and (C) the history of fee increases over the past
358 three calendar years;

359 [(4)] (5) The grievance procedure with respect to enforcement of the
360 terms of the residency agreement;

361 [(5)] (6) The managed residential community's covenant to comply
362 with all municipal, state and federal laws and regulations regarding
363 consumer protection and protection from financial exploitation;

364 [(6)] (7) The managed residential community's covenant to afford
365 residents all rights and privileges afforded under title 47a;

366 [(7)] (8) The conditions under which the agreement can be terminated
367 by either party;

368 [(8)] (9) Full disclosure of the rights and responsibilities of the
369 resident and the managed residential community in situations
370 involving serious deterioration in the health of the resident,
371 hospitalization of the resident or death of the resident, including a
372 provision that specifies that in the event that a resident of the
373 community dies, the estate or family of such resident shall only be

374 responsible for further payment to the community for a period of time
375 not to exceed fifteen days following the date of death of such resident as
376 long as the private residential unit formerly occupied by the resident
377 has been vacated; and

378 [(9)] (10) Any adopted rules of the managed residential community
379 reasonably designed to promote the health, safety and welfare of
380 residents.

381 Sec. 9. Section 19a-694 of the 2024 supplement to the general statutes
382 is repealed and the following is substituted in lieu thereof (*Effective July*
383 *1, 2024*):

384 (a) All managed residential communities operating in the state shall;

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

387 (2) Provide residents or residents' representatives advance notice of
388 ninety days of any increase to monthly or reoccurring fees and disclose
389 in writing any nonrefundable charges;

390 (3) Provide residents prorated or full reimbursements of certain
391 charges if the managed residential community determines it can no
392 longer meet the resident's needs during the first forty-five days after
393 occupancy by the resident of the managed residential community unit,
394 including, but not limited to, prorated first month's rent, prorated
395 community fee, full last month's rent and full security deposit;

396 [(2)] (4) Afford residents the ability to access services provided by an
397 assisted living services agency. Such services shall be provided in
398 accordance with a service plan developed in accordance with section
399 19a-699;

400 [(3)] (5) Upon the request of a resident, arrange, in conjunction with
401 the assisted living services agency, for the provision of ancillary medical
402 services on behalf of a resident, including physician and dental services,
403 pharmacy services, restorative physical therapies, podiatry services,

404 hospice care and home health agency services, provided the ancillary
405 medical services are not administered by employees of the managed
406 residential community, unless the resident chooses to receive such
407 services;

408 ~~[(4)]~~ (6) Provide a formally established security program for the
409 protection and safety of residents that is designed to protect residents
410 from intruders;

411 ~~[(5)]~~ (7) Afford residents the rights and privileges guaranteed under
412 title 47a;

413 ~~[(6)]~~ (8) Comply with the provisions of subsection (c) of section 19-13-
414 D105 of the regulations of Connecticut state agencies;

415 ~~[(7)]~~ (9) Assist a resident who has a long-term care insurance policy
416 with preparing and submitting claims for benefits to the insurer,
417 provided such resident has executed a written authorization requesting
418 and directing the insurer to (A) disclose information to the managed
419 residential community relevant to such resident's eligibility for an
420 insurance benefit or payment, and (B) provide a copy of the acceptance
421 or declination of a claim for benefits to the managed residential
422 community at the same time such acceptance or declination is made to
423 such resident; and

424 ~~[(8) On or before January 1, 2024, encourage]~~ (10) Encourage and
425 assist in the establishment of a family council in managed residential
426 communities offering assisted living services. Such family council shall
427 not allow a family member or friend of a resident who is not a resident
428 of a dementia special care unit to participate in the family council
429 without the consent of such resident.

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

433 Sec. 10. Subsection (e) of section 19a-564 of the 2024 supplement to

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

436 (e) An assisted living services agency shall: [ensure that] (1) Ensure
437 that all services being provided on an individual basis to clients are fully
438 understood and agreed upon between either the client or the client's
439 representative; [, and] (2) ensure that the client or the client's
440 representative are made aware of the cost of any such services; (3)
441 disclose fee increases to a resident or a resident's representative not later
442 than sixty days prior to such fees taking effect; and (4) provide, upon
443 request, to a resident and a resident's representative the history of fee
444 increases over the past three calendar years. Nothing in this subsection
445 shall be construed to limit an assisted living services agency from
446 immediately adjusting fees to the extent such adjustments are directly
447 related to a change in the level of care or services necessary to meet
448 individual resident safety needs at the time of a scheduled resident care
449 meeting or if a resident's change of condition requires a change in
450 services.

451 Sec. 11. Section 17b-99a of the general statutes is repealed and the
452 following is substituted in lieu thereof (*Effective from passage*):

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

462 (2) The Commissioner of Social Services shall conduct any audit,
463 including a forensic audit, of a licensed chronic and convalescent
464 nursing home, chronic disease hospital associated with a chronic and
465 convalescent nursing home, a rest home with nursing supervision, a

466 licensed residential care home, as defined in section 19a-490, and a
467 residential facility for persons with intellectual disability which is
468 licensed pursuant to section 17a-227 and certified to participate in the
469 Medicaid program as an intermediate care facility for individuals with
470 intellectual disabilities in accordance with the provisions of this section.

471 (b) Not less than thirty days prior to the commencement of any such
472 audit, the commissioner shall provide written notification of the audit
473 to such facility, unless the commissioner makes a good-faith
474 determination that (1) the health or safety of a recipient of services is at
475 risk; or (2) the facility is engaging in vendor fraud under sections 53a-
476 290 to 53a-296, inclusive.

477 (c) Any clerical error, including, but not limited to, recordkeeping,
478 typographical, scrivener's or computer error, discovered in a record or
479 document produced for any such audit, shall not of itself constitute a
480 wilful violation of the rules of a medical assistance program
481 administered by the Department of Social Services unless proof of intent
482 to commit fraud or otherwise violate program rules is established. In
483 determining which facilities shall be subject to audits, the Commissioner
484 of Social Services may give consideration to the history of a facility's
485 compliance in addition to other criteria used to select a facility for an
486 audit.

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

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

497 (f) The commissioner shall produce a preliminary written report

498 concerning any audit conducted pursuant to this section and such
499 preliminary report shall be provided to the facility that was the subject
500 of the audit not later than sixty days after the conclusion of such audit.

501 (g) The commissioner shall, following the issuance of the preliminary
502 report pursuant to subsection (f) of this section, hold an exit conference
503 with any facility that was the subject of any audit pursuant to this
504 subsection for the purpose of discussing the preliminary report. Such
505 facility may present evidence at such exit conference refuting findings
506 in the preliminary report.

507 (h) The commissioner shall produce a final written report concerning
508 any audit conducted pursuant to this subsection. Such final written
509 report shall be provided to the facility that was the subject of the audit
510 not later than sixty days after the date of the exit conference conducted
511 pursuant to subsection (g) of this section, unless the commissioner and
512 the facility agree to a later date or there are other referrals or
513 investigations pending concerning the facility.

514 (i) Any facility aggrieved by a final report issued pursuant to
515 subsection (h) of this section may request a rehearing. A rehearing shall
516 be held by the commissioner or the commissioner's designee, provided
517 a detailed written description of all items of aggrievement in the final
518 report is filed by the facility not later than ninety days following the date
519 of written notice of the commissioner's decision. The rehearing shall be
520 held not later than thirty days following the date of filing of the detailed
521 written description of each specific item of aggrievement. The
522 commissioner shall issue a final decision not later than sixty days
523 following the close of evidence or the date on which final briefs are filed,
524 whichever occurs later. Any items not resolved at such rehearing to the
525 satisfaction of the facility or the commissioner shall be submitted to
526 binding arbitration by an arbitration board consisting of one member
527 appointed by the facility, one member appointed by the commissioner
528 and one member appointed by the Chief Court Administrator from
529 among the retired judges of the Superior Court, which retired judge
530 shall be compensated for his services on such board in the same manner

531 as a state referee is compensated for his services under section 52-434.
532 The proceedings of the arbitration board and any decisions rendered by
533 such board shall be conducted in accordance with the provisions of the
534 Social Security Act, 42 USC 1396, as amended from time to time, and
535 chapter 54.

536 (j) The submission of any false or misleading fiscal information or
537 data to the commissioner shall be grounds for suspension of payments
538 by the state under sections 17b-239 to 17b-246, inclusive, and sections
539 17b-340, and 17b-343, in accordance with regulations adopted by the
540 commissioner. In addition, any person, including any corporation, who
541 knowingly makes or causes to be made any false or misleading
542 statement or who knowingly submits false or misleading fiscal
543 information or data on the forms approved by the commissioner shall
544 be guilty of a class D felony.

545 (k) The commissioner, or any agent authorized by the commissioner
546 to conduct any inquiry, investigation or hearing under the provisions of
547 this section, shall have power to administer oaths and take testimony
548 under oath relative to the matter of inquiry or investigation. At any
549 hearing ordered by the commissioner, the commissioner or such agent
550 having authority by law to issue such process may subpoena witnesses
551 and require the production of records, papers and documents pertinent
552 to such inquiry. If any person disobeys such process or, having
553 appeared in obedience thereto, refuses to answer any pertinent question
554 put to the person by the commissioner or the commissioner's authorized
555 agent or to produce any records and papers pursuant thereto, the
556 commissioner or the commissioner's agent may apply to the superior
557 court for the judicial district of Hartford or for the judicial district
558 wherein the person resides or wherein the business has been conducted,
559 or to any judge of such court if the same is not in session, setting forth
560 such disobedience to process or refusal to answer, and such court or
561 judge shall cite such person to appear before such court or judge to
562 answer such question or to produce such records and papers.

563 (l) The commissioner shall provide free training to facilities on the

564 preparation of cost reports to avoid clerical errors and shall post
565 information on the department's Internet web site concerning the
566 auditing process and methods to avoid clerical errors. Not later than
567 April 1, 2015, the commissioner shall establish audit protocols to assist
568 facilities subject to audit pursuant to this section in developing
569 programs to improve compliance with Medicaid requirements under
570 state and federal laws and regulations, provided audit protocols may
571 not be relied upon to create a substantive or procedural right or benefit
572 enforceable at law or in equity by any person, including a corporation.
573 The commissioner shall establish and publish on the department's
574 Internet web site audit protocols for: (1) Licensed chronic and
575 convalescent nursing homes, (2) chronic disease hospitals associated
576 with chronic and convalescent nursing homes, (3) rest homes with
577 nursing supervision, (4) licensed residential care homes, as defined in
578 section 19a-490, and (5) residential facilities for persons with intellectual
579 disability that are licensed pursuant to section 17a-227 and certified to
580 participate in the Medicaid program as intermediate care facilities for
581 individuals with intellectual disabilities. The commissioner shall ensure
582 that the Department of Social Services, or any entity with which the
583 commissioner contracts to conduct an audit pursuant to this section, has
584 on staff or consults with, as needed, licensed health professionals with
585 experience in treatment, billing and coding procedures used by the
586 facilities being audited pursuant to this section.

587 (m) A facility shall be liable to the Department of Social Services for
588 the costs of any forensic audit of a facility identified by the department
589 as potentially experiencing a serious financial loss, including, but not
590 limited to, any reports or subsequent testimony related thereto. A
591 facility shall cooperate and assist with a forensic audit as requested by
592 the department and shall ensure that all facility personnel, financial
593 consultants and accountants fully cooperate and assist with a forensic
594 audit as may be necessary. A facility shall be subject to a civil monetary
595 penalty not to exceed three thousand two hundred fifty dollars per day
596 for each day that the facility fails to comply with a written request by
597 the department to cooperate and assist with a forensic audit. A facility

598 may request a fair hearing on the assessment of any such civil monetary
599 penalty as an aggrieved person pursuant to section 17b-60. The
600 department may recover the costs of any such forensic audit or civil
601 monetary penalties assessed in accordance with this subsection through
602 recoupment of such amounts against the funds that would otherwise be
603 paid to such facility for services rendered to recipients of assistance
604 under the Medicaid program.

605 Sec. 12. Section 19a-543 of the general statutes is repealed and the
606 following is substituted in lieu thereof (*Effective from passage*):

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

621 Sec. 13. Section 19a-547 of the general statutes is repealed and the
622 following is substituted in lieu thereof (*Effective from passage*):

623 (a) The court may appoint any responsible individual whose name is
624 proposed by the Commissioner of Public Health and the Commissioner
625 of Social Services to act as a receiver. [For a nursing home facility, such
626 individual shall be a nursing home facility administrator licensed in the
627 state of Connecticut with substantial experience in operating
628 Connecticut nursing homes. For a residential care home, such
629 individual shall have experience as a residential care home

630 administrator or, if there is no such individual, such individual shall
631 have experience in the state similar to that of a residential care home
632 administrator. The Commissioner of Social Services shall adopt
633 regulations governing qualifications for proposed receivers consistent
634 with this subsection.] Such individual shall have substantial experience
635 in the delivery of high-quality health care services and successful
636 management or operation of long-term care facilities, and have achieved
637 an educational level or have such licensure as customarily is held by
638 persons managing or operating health care facilities similar to the
639 facility or facilities subject to receivership. No state employee or owner,
640 administrator or other person with a financial interest in the nursing
641 home facility or residential care home may serve as a receiver for that
642 nursing home facility or residential care home. No person appointed to
643 act as a receiver shall be permitted to have a current financial interest in
644 the nursing home facility or residential care home; nor shall such person
645 appointed as a receiver be permitted to have a financial interest in the
646 nursing home facility or residential care home for a period of five years
647 from the date the receivership ceases.

648 (b) The court may remove such receiver in accordance with section
649 52-513. A nursing home facility or residential care home receiver
650 appointed pursuant to this section shall be entitled to a reasonable
651 receiver's fee as determined by the court. The receiver shall be liable
652 only in the receiver's official capacity for injury to person and property
653 by reason of the conditions of the nursing home facility or residential
654 care home. The receiver shall not be personally liable, except for acts or
655 omissions constituting gross, wilful or wanton negligence.

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

658 (d) The court may require the Commissioner of Public Health to
659 provide for the payment of any receiver's fees authorized in subsection
660 (a) of this section upon a showing by such receiver to the satisfaction of
661 the court that (1) the assets of the nursing home facility or residential
662 care home are not sufficient to make such payment, and (2) no other

663 source of payment is available, including the submission of claims in a
664 bankruptcy proceeding. The state shall have a claim for any court-
665 ordered fees and expenses of the receiver that shall have priority over
666 all other claims of secured and unsecured creditors and other persons
667 whether or not such nursing home facility or residential care home is in
668 bankruptcy, to the extent allowed under state or federal law.

669 Sec. 14. Section 19a-561 of the general statutes is repealed and the
670 following is substituted in lieu thereof (*Effective from passage*):

671 (a) As used in this section, (1) "nursing facility management services"
672 means services provided in a nursing facility to manage the operations
673 of such facility, including the provision of care and services, [and] (2)
674 "nursing facility management services certificate holder" means a
675 person or entity certified by the Department of Public Health to provide
676 nursing facility management services, and (3) "managed facility" means
677 a nursing facility that receives nursing facility management services
678 from a nursing facility management services certificate holder.

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

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

686 (1) (A) The name and business address of the applicant and whether
687 the applicant is an individual, partnership, corporation or other legal
688 entity; (B) if the applicant is a partnership, corporation or other legal
689 entity, the names of the officers, directors, trustees, managing and
690 general partners of the applicant, the names of the persons who have a
691 [ten] five per cent or greater beneficial ownership interest in the
692 partnership, corporation or other legal entity, and a description of each
693 such person's relationship to the applicant; (C) if the applicant is a
694 corporation incorporated in another state, a certificate of good standing

695 from the state agency with jurisdiction over corporations in such state;
696 and (D) if the applicant currently provides nursing facility management
697 services in another state, a certificate of good standing from the licensing
698 agency with jurisdiction over public health for each state in which such
699 services are provided;

700 (2) A description of the applicant's nursing facility management
701 experience;

702 (3) An affidavit signed by the applicant and any of the persons
703 described in subparagraph (B) of subdivision (1) of this subsection
704 disclosing any matter in which the applicant or such person (A) has been
705 convicted of an offense classified as a felony under section 53a-25 or
706 pleaded nolo contendere to a felony charge, or (B) has been held liable
707 or enjoined in a civil action by final judgment, if the felony or civil action
708 involved fraud, embezzlement, fraudulent conversion or
709 misappropriation of property, or (C) is subject to a currently effective
710 injunction or restrictive or remedial order of a court of record at the time
711 of application, or (D) within the past five years has had any state or
712 federal license or permit suspended or revoked as a result of an action
713 brought by a governmental agency or department, arising out of or
714 relating to business activity or health care, including, but not limited to,
715 actions affecting the operation of a nursing facility, residential care
716 home or any facility subject to sections 17b-520 to 17b-535, inclusive, or
717 a similar statute in another state or country; and

718 (4) The location and description of any nursing facility in this state or
719 another state in which the applicant or a beneficial owner of the
720 applicant currently provides management services or has provided such
721 services or is currently or has been the owner, operator or administrator
722 within the past five years and whether any such facility has been subject
723 to:

724 (A) Three or more civil penalties imposed through final order of the
725 commissioner in accordance with the provisions of sections 19a-524 to
726 19a-528, inclusive, or civil penalties imposed pursuant to the laws or

727 regulations of another state during the two-year period preceding the
728 date on which such application is submitted;

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

734 (C) Termination or nonrenewal of a Medicare or Medicaid provider
735 agreement.

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

741 (e) Each application for a certificate to provide nursing facility
742 management services shall be accompanied by an application fee of
743 three hundred dollars. The certificate shall list each location at which
744 nursing facility management services may be provided by the holder of
745 the certificate. The nursing facility management services certificate
746 holder shall request the approval of the Department of Public Health to
747 provide nursing facility management services not later than thirty days
748 in advance of providing services to a nursing facility not listed on its
749 certificate. The department may grant said approval subject to
750 conditions or deny such approval based upon the compliance with state
751 and federal regulatory requirements by the nursing facilities managed
752 by the holder of the certificate.

753 (f) The department shall base its decision on whether to issue or
754 renew a certificate on the information presented and otherwise available
755 to the department and on the compliance status of the managed
756 [entities] facilities. The department may deny certification to any
757 applicant for the provision of nursing facility management services (1)
758 [at any specific facility or facilities where there has been a substantial

759 failure to comply with the Public Health Code, or (2)] if the applicant
760 fails to provide the information required under [subdivision (1) of]
761 subsection (c) of this section, or (2) if the department determines that the
762 applicant or a beneficial owner of the applicant has an unacceptable
763 history of past and current compliance with state licensure
764 requirements, applicable federal requirements and state regulatory
765 requirements for each licensed health care facility owned, operated or
766 managed by the applicant or a beneficial owner of the applicant in the
767 United States or any territory of the United States during the five years
768 preceding the date on which such application is submitted, as evidenced
769 by:

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

772 (B) Any such licensed health care facility having continuing
773 violations or a pattern of violations of state licensure standards or
774 federal certification standards; or

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

778 (g) Renewal applications shall be made biennially after (1)
779 submission of the information required by subsection (c) of this section
780 and any other information required by the department, [pursuant to
781 subsection (d) of this section,] and (2) submission of evidence
782 satisfactory to the department that any nursing facility at which the
783 applicant provides nursing facility management services has been and
784 currently is in substantial compliance with federal regulatory
785 requirements, the provisions of this chapter, the Public Health Code and
786 licensing regulations, and (3) payment of a three-hundred-dollar fee.

787 (h) In any case in which the Commissioner of Public Health finds that
788 there has been a substantial failure by one or more managed facilities to
789 comply with state licensure requirements, applicable federal
790 requirements and state regulatory requirements or a substantial failure

791 by a nursing facility management services certificate holder managing
792 such facilities to comply with the requirements for such certificate
793 holder established under this section, the commissioner may initiate and
794 impose disciplinary action against a nursing facility management
795 services certificate holder pursuant to section 19a-494. If three or more
796 facilities managed by a nursing facility management services certificate
797 holder are subject to civil penalties imposed through final order of the
798 commissioner in accordance with the provisions of sections 19a-524 to
799 19a-528, inclusive, during a twelve-month period, the commissioner
800 may impose a civil penalty on the nursing facility management services
801 certificate holder of not more than twenty thousand dollars. The
802 procedure for imposition of said penalty shall be in accordance with
803 subsection (b) of section 19a-494.

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

808 (j) The department, in implementing the provisions of this section,
809 may conduct any inquiry or investigation, in accordance with the
810 provisions of section 19a-498, regarding an applicant or certificate
811 holder.

812 (k) In any case in which the commissioner finds that there has been a
813 substantial failure to comply with the requirements established under
814 this chapter, or regulations adopted thereunder, the commissioner may
815 require the nursing facility licensee and the nursing facility
816 management service certificate holder to jointly submit a plan of
817 correction as described in section 19a-496, as amended by this act. A
818 plan of correction accepted by the department shall constitute an order
819 of the department. Violation of such order may be the subject of
820 disciplinary action against a nursing facility management services
821 certificate holder pursuant to section 19a-494.

822 (l) Any person or entity providing nursing facility management

823 services without the certificate required under this section shall be
824 subject to a civil penalty of not more than one thousand dollars for each
825 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>	New section
Sec. 3	<i>July 1, 2024</i>	New section
Sec. 4	<i>July 1, 2024</i>	19a-533
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	17b-357
Sec. 7	<i>from passage</i>	19a-496(b)
Sec. 8	<i>from passage</i>	19a-700
Sec. 9	<i>July 1, 2024</i>	19a-694
Sec. 10	<i>July 1, 2024</i>	19a-564(e)
Sec. 11	<i>from passage</i>	17b-99a
Sec. 12	<i>from passage</i>	19a-543
Sec. 13	<i>from passage</i>	19a-547
Sec. 14	<i>from passage</i>	19a-561

AGE *Joint Favorable*

JUD *Joint Favorable*