



General Assembly

Substitute Bill No. 6678

January Session, 2023



AN ACT CONCERNING NURSING HOME TRANSPARENCY.

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

1 Section 1. (NEW) (*Effective July 1, 2023*) (a) Beginning with the cost
2 report year ending on September 30, 2023, and annually thereafter, each
3 nursing home facility, as defined in section 19a-490 of the general
4 statutes, shall submit to the Commissioner of Social Services narrative
5 summaries of expenditures in addition to the cost reports required
6 pursuant to section 17b-340 of the general statutes, as amended by this
7 act. The summaries shall include the percentage of Medicaid funding
8 allocated to the five cost components of allowable costs described in
9 section 17b-340d of the general statutes and include expenditures for
10 each allowable cost component by the nursing home and any related
11 party, as defined in section 17b-340 of the general statutes, as amended
12 by this act.

13 (b) Not later than January 1, 2024, and annually thereafter, the
14 Commissioner of Social Services shall post in a conspicuous area on the
15 Internet web site of the Department of Social Services a link to (1) the
16 annual cost reports and the summaries provided by each nursing home
17 facility, (2) comparisons between individual nursing homes by
18 expenditures, and (3) a summary of the average reported expenditures
19 by facility for each category. Any cost report forms utilized by the

20 department shall include a glossary and explanation of the terms used
21 and a description of the categories being reported on, including, but not
22 limited to, plain language explanation of formulas used to determine
23 maximum costs for the five allowable cost components described in
24 section 17b-340d of the general statutes.

25 (c) Any nursing home facility that violates or fails to comply with the
26 provisions of this section shall be fined not more than ten thousand
27 dollars for each incident of noncompliance. The Commissioner of Social
28 Services may offset payments due a facility to collect the penalty. Prior
29 to imposing any penalty pursuant to this subsection, the commissioner
30 shall notify the nursing home facility of the alleged violation and the
31 accompanying penalty and shall permit such facility to request that the
32 department review its findings. A facility shall request such review not
33 later than fifteen days after receipt of the notice of violation from the
34 department. The department shall stay the imposition of any penalty
35 pending the outcome of the review. The commissioner may impose a
36 penalty upon a facility pursuant to this subsection regardless of whether
37 a change in ownership of the facility has taken place since the time of
38 the violation, provided the department issued notice of the alleged
39 violation and the accompanying penalty prior to the effective date of the
40 change in ownership and record of such notice is readily available in a
41 central registry maintained by the department. Payments of fines
42 received pursuant to this subsection shall be deposited in the General
43 Fund and credited to the Medicaid account.

44 Sec. 2. Section 19a-491a of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective July 1, 2023*):

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

49 (1) (A) The name and business address of the owner and a statement
50 of whether the owner is an individual, partnership, corporation or other
51 legal entity; (B) the names of the officers, directors, trustees, or

52 managing and general partners of the owner, the names of persons
53 having a ten per cent or greater ownership interest in the owner, and a
54 description of each such person's occupation with the owner; [and] (C)
55 if the owner is a corporation which is incorporated in another state, a
56 certificate of good standing from the secretary of state of the state of
57 incorporation; and (D) if a private equity fund owns any portion of the
58 business, the name of the fund's investment advisor and a copy of the
59 most recent quarterly statement provided to the private fund's
60 investors, including information regarding fees, expenses and
61 performance of the fund;

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

65 (3) Affidavits signed by the owner, any of the persons described in
66 subdivision (1) of this subsection, the administrator, assistant
67 administrator, the medical director, the director of nursing and assistant
68 director of nursing disclosing any matter in which such person has been
69 convicted of a felony, as defined in section 53a-25, or has pleaded nolo
70 contendere to a felony charge, or has been held liable or enjoined in a
71 civil action by final judgment, if the felony or civil action involved fraud,
72 embezzlement, fraudulent conversion or misappropriation of property;
73 or is subject to an injunction or restrictive or remedial order of a court of
74 record at the time of application, within the past five years has had any
75 state or federal license or permit suspended or revoked as a result of an
76 action brought by a governmental agency or department, arising out of
77 or relating to health care business activity, including, but not limited to,
78 actions affecting the operation of a nursing home, retirement home,
79 residential care home or any facility subject to sections 17b-520 to 17b-
80 535, inclusive, or a similar statute in another state or country;

81 (4) (A) A statement as to whether or not the owner is, or is affiliated
82 with, a religious, charitable or other nonprofit organization; (B) the
83 extent of the affiliation, if any; (C) the extent to which the affiliate
84 organization will be responsible for the financial obligations of the

85 owner; and (D) the provision of the Internal Revenue Code of 1986, or
86 any subsequent corresponding internal revenue code of the United
87 States, as from time to time amended, if any, under which the owner or
88 affiliate is exempt from the payment of income tax;

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

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

96 ~~[(6)]~~ (7) If the operation of the nursing home has not yet commenced,
97 a statement of the anticipated source and application of the funds used
98 or to be used in the purchase or construction of the home, including:

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

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

106 [(b) In addition to the information provided pursuant to subsection
107 (a) of this section, the commissioner may reasonably require an
108 applicant for a nursing home license or renewal of a nursing home
109 license to submit additional information. Such information may include
110 audited and certified financial statements of the owner, including, (1) a
111 balance sheet as of the end of the most recent fiscal year, and (2) income
112 statements for the most recent fiscal year of the owner or such shorter
113 period of time as the owner shall have been in existence.]

114 [(c)] (b) No person acting individually or jointly with any other

115 person shall establish, conduct, operate or maintain a nursing home
116 without maintaining professional liability insurance or other indemnity
117 against liability for professional malpractice. The amount of insurance
118 which such person shall maintain as insurance or indemnity against
119 claims for injury or death for professional malpractice shall be not less
120 than one million dollars for one person, per occurrence, with an
121 aggregate of not less than three million dollars. The requirements of this
122 subsection shall not apply to any person who establishes, conducts,
123 operates or maintains a residential care home.

124 [(d)] (c) A person seeking to renew a nursing home license shall
125 furnish the department with any information required under this
126 section that was not previously submitted and with satisfactory written
127 proof that the owner of the nursing home consents to such renewal, if
128 the owner is different from the person seeking renewal, and shall
129 provide data on any change in the information submitted. The
130 commissioner shall refuse to issue or renew a nursing home license if
131 the person seeking renewal fails to provide the information required
132 under this section. Upon such refusal, the commissioner shall grant such
133 license to the holder of the certificate of need, provided such holder
134 meets all requirements for such licensure. If such holder does not meet
135 such requirements, the commissioner shall proceed in accordance with
136 sections 19a-541 to 19a-549, inclusive. If the commissioner is considering
137 a license renewal application pursuant to an order of the commissioner,
138 the procedures in this subsection shall apply to such consideration.

139 Sec. 3. Subsection (a) of section 17b-340 of the general statutes is
140 repealed and the following is substituted in lieu thereof (*Effective July 1,*
141 *2023*):

142 (a) For purposes of this subsection, (1) a "related party" includes, but
143 is not limited to, any company related to a chronic and convalescent
144 nursing home through family association, common ownership, control
145 or business association with any of the owners, operators or officials of
146 such nursing home; (2) "company" means any person, partnership,
147 association, holding company, limited liability company or corporation;

148 (3) "family association" means a relationship by birth, marriage or
149 domestic partnership; and (4) "profit and loss statement" means the
150 most recent annual statement on profits and losses finalized by a related
151 party before the annual report mandated under this subsection. The
152 rates to be paid by or for persons aided or cared for by the state or any
153 town in this state to licensed chronic and convalescent nursing homes,
154 to chronic disease hospitals associated with chronic and convalescent
155 nursing homes, to rest homes with nursing supervision, to licensed
156 residential care homes, as defined by section 19a-490, and to residential
157 facilities for persons with intellectual disability that are licensed
158 pursuant to section 17a-227 and certified to participate in the Title XIX
159 Medicaid program as intermediate care facilities for individuals with
160 intellectual disabilities, for room, board and services specified in
161 licensing regulations issued by the licensing agency shall be determined
162 annually, except as otherwise provided in this subsection by the
163 Commissioner of Social Services, to be effective July first of each year
164 except as otherwise provided in this subsection. Such rates shall be
165 determined on a basis of a reasonable payment for such necessary
166 services, which basis shall take into account as a factor the costs of such
167 services. Cost of such services shall include reasonable costs mandated
168 by collective bargaining agreements with certified collective bargaining
169 agents or other agreements between the employer and employees,
170 provided "employees" shall not include persons employed as managers
171 or chief administrators or required to be licensed as nursing home
172 administrators, and compensation for services rendered by proprietors
173 at prevailing wage rates, as determined by application of principles of
174 accounting as prescribed by said commissioner. Cost of such services
175 shall not include amounts paid by the facilities to employees as salary,
176 or to attorneys or consultants as fees, where the responsibility of the
177 employees, attorneys, or consultants is to persuade or seek to persuade
178 the other employees of the facility to support or oppose unionization.
179 Nothing in this subsection shall prohibit inclusion of amounts paid for
180 legal counsel related to the negotiation of collective bargaining
181 agreements, the settlement of grievances or normal administration of
182 labor relations. The commissioner may, in the commissioner's

183 discretion, allow the inclusion of extraordinary and unanticipated costs
184 of providing services that were incurred to avoid an immediate negative
185 impact on the health and safety of patients. The commissioner may, in
186 the commissioner's discretion, based upon review of a facility's costs,
187 direct care staff to patient ratio and any other related information, revise
188 a facility's rate for any increases or decreases to total licensed capacity
189 of more than ten beds or changes to its number of licensed rest home
190 with nursing supervision beds and chronic and convalescent nursing
191 home beds. The commissioner may, in the commissioner's discretion,
192 revise the rate of a facility that is closing. An interim rate issued for the
193 period during which a facility is closing shall be based on a review of
194 facility costs, the expected duration of the close-down period, the
195 anticipated impact on Medicaid costs, available appropriations and the
196 relationship of the rate requested by the facility to the average Medicaid
197 rate for a close-down period. The commissioner may so revise a facility's
198 rate established for the fiscal year ending June 30, 1993, and thereafter
199 for any bed increases, decreases or changes in licensure effective after
200 October 1, 1989. Effective July 1, 1991, in facilities that have both a
201 chronic and convalescent nursing home and a rest home with nursing
202 supervision, the rate for the rest home with nursing supervision shall
203 not exceed such facility's rate for its chronic and convalescent nursing
204 home. All such facilities for which rates are determined under this
205 subsection shall report on a fiscal year basis ending on September
206 thirtieth. Such report shall be submitted to the commissioner by
207 February fifteenth. Each [for-profit] chronic and convalescent nursing
208 home that receives state funding pursuant to this section shall include
209 in such annual report a profit and loss statement from each related party
210 that receives from such chronic and convalescent nursing home [fifty
211 thousand dollars or more per year] any amount of income for goods,
212 fees and services. No cause of action or liability shall arise against the
213 state, the Department of Social Services, any state official or agent for
214 failure to take action based on the information required to be reported
215 under this subsection. The commissioner may reduce the rate in effect
216 for a facility that fails to submit a complete and accurate report on or
217 before February fifteenth by an amount not to exceed ten per cent of

218 such rate. If a licensed residential care home fails to submit a complete
219 and accurate report, the department shall notify such home of the failure
220 and the home shall have thirty days from the date the notice was issued
221 to submit a complete and accurate report. If a licensed residential care
222 home fails to submit a complete and accurate report not later than thirty
223 days after the date of notice, such home may not receive a retroactive
224 rate increase, in the commissioner's discretion. The commissioner shall,
225 annually, on or before April first, report the data contained in the reports
226 of such facilities on the department's Internet web site. For the cost
227 reporting year commencing October 1, 1985, and for subsequent cost
228 reporting years, facilities shall report the cost of using the services of any
229 nursing personnel supplied by a temporary nursing services agency by
230 separating said cost into two categories, the portion of the cost equal to
231 the salary of the employee for whom the nursing personnel supplied by
232 a temporary nursing services agency is substituting shall be considered
233 a nursing cost and any cost in excess of such salary shall be further
234 divided so that seventy-five per cent of the excess cost shall be
235 considered an administrative or general cost and twenty-five per cent of
236 the excess cost shall be considered a nursing cost, provided if the total
237 costs of a facility for nursing personnel supplied by a temporary nursing
238 services agency in any cost year are equal to or exceed fifteen per cent
239 of the total nursing expenditures of the facility for such cost year, no
240 portion of such costs in excess of fifteen per cent shall be classified as
241 administrative or general costs. The commissioner, in determining such
242 rates, shall also take into account the classification of patients or
243 boarders according to special care requirements or classification of the
244 facility according to such factors as facilities and services and such other
245 factors as the commissioner deems reasonable, including anticipated
246 fluctuations in the cost of providing such services. The commissioner
247 may establish a separate rate for a facility or a portion of a facility for
248 traumatic brain injury patients who require extensive care but not acute
249 general hospital care. Such separate rate shall reflect the special care
250 requirements of such patients. If changes in federal or state laws,
251 regulations or standards adopted subsequent to June 30, 1985, result in
252 increased costs or expenditures in an amount exceeding one-half of one

253 per cent of allowable costs for the most recent cost reporting year, the
254 commissioner shall adjust rates and provide payment for any such
255 increased reasonable costs or expenditures within a reasonable period
256 of time retroactive to the date of enforcement. Nothing in this section
257 shall be construed to require the Department of Social Services to adjust
258 rates and provide payment for any increases in costs resulting from an
259 inspection of a facility by the Department of Public Health. Such
260 assistance as the commissioner requires from other state agencies or
261 departments in determining rates shall be made available to the
262 commissioner at the commissioner's request. Payment of the rates
263 established pursuant to this section shall be conditioned on the
264 establishment by such facilities of admissions procedures that conform
265 with this section, section 19a-533 and all other applicable provisions of
266 the law and the provision of equality of treatment to all persons in such
267 facilities. The established rates shall be the maximum amount
268 chargeable by such facilities for care of such beneficiaries, and the
269 acceptance by or on behalf of any such facility of any additional
270 compensation for care of any such beneficiary from any other person or
271 source shall constitute the offense of aiding a beneficiary to obtain aid
272 to which the beneficiary is not entitled and shall be punishable in the
273 same manner as is provided in subsection (b) of section 17b-97.
274 Notwithstanding any provision of this section, the Commissioner of
275 Social Services may, within available appropriations, provide an interim
276 rate increase for a licensed chronic and convalescent nursing home or a
277 rest home with nursing supervision for rate periods no earlier than April
278 1, 2004, only if the commissioner determines that the increase is
279 necessary to avoid the filing of a petition for relief under Title 11 of the
280 United States Code; imposition of receivership pursuant to sections 19a-
281 542 and 19a-543; or substantial deterioration of the facility's financial
282 condition that may be expected to adversely affect resident care and the
283 continued operation of the facility, and the commissioner determines
284 that the continued operation of the facility is in the best interest of the
285 state. The commissioner shall consider any requests for interim rate
286 increases on file with the department from March 30, 2004, and those
287 submitted subsequently for rate periods no earlier than April 1, 2004.

288 When reviewing an interim rate increase request the commissioner
289 shall, at a minimum, consider: (A) Existing chronic and convalescent
290 nursing home or rest home with nursing supervision utilization in the
291 area and projected bed need; (B) physical plant long-term viability and
292 the ability of the owner or purchaser to implement any necessary
293 property improvements; (C) licensure and certification compliance
294 history; (D) reasonableness of actual and projected expenses; and (E) the
295 ability of the facility to meet wage and benefit costs. No interim rate
296 shall be increased pursuant to this subsection in excess of one hundred
297 fifteen per cent of the median rate for the facility's peer grouping,
298 established pursuant to subdivision (2) of subsection (f) of this section,
299 unless recommended by the commissioner and approved by the
300 Secretary of the Office of Policy and Management after consultation
301 with the commissioner. Such median rates shall be published by the
302 Department of Social Services not later than April first of each year. In
303 the event that a facility granted an interim rate increase pursuant to this
304 section is sold or otherwise conveyed for value to an unrelated entity
305 less than five years after the effective date of such rate increase, the rate
306 increase shall be deemed rescinded and the department shall recover an
307 amount equal to the difference between payments made for all affected
308 rate periods and payments that would have been made if the interim
309 rate increase was not granted. The commissioner may seek recovery of
310 such payments from any facility with common ownership. With the
311 approval of the Secretary of the Office of Policy and Management, the
312 commissioner may waive recovery and rescission of the interim rate for
313 good cause shown that is not inconsistent with this section, including,
314 but not limited to, transfers to family members that were made for no
315 value. The commissioner shall provide written quarterly reports to the
316 joint standing committees of the General Assembly having cognizance
317 of matters relating to aging, human services and appropriations and the
318 budgets of state agencies, that identify each facility requesting an
319 interim rate increase, the amount of the requested rate increase for each
320 facility, the action taken by the commissioner and the secretary pursuant
321 to this subsection, and estimates of the additional cost to the state for
322 each approved interim rate increase. Nothing in this subsection shall

323 prohibit the commissioner from increasing the rate of a licensed chronic
324 and convalescent nursing home or a rest home with nursing supervision
325 for allowable costs associated with facility capital improvements or
326 increasing the rate in case of a sale of a licensed chronic and convalescent
327 nursing home or a rest home with nursing supervision if receivership
328 has been imposed on such home. For purposes of this section,
329 "temporary nursing services agency" and "nursing personnel" have the
330 same meaning as provided in section 19a-118.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2023	New section
Sec. 2	July 1, 2023	19a-491a
Sec. 3	July 1, 2023	17b-340(a)

Statement of Legislative Commissioners:

In Section 1(b), "department's Internet web site" was changed to "Internet web site of the Department of Social Services" for clarity.

AGE *Joint Favorable Subst.*