



General Assembly

January Session, 2019

Raised Bill No. 1066

LCO No. 5938



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

***AN ACT PROVIDING A VOICE FOR NURSING HOME RESIDENTS
SUBJECT TO TRANSFER DUE TO NURSING HOME CLOSURES OR
RECEIVERSHIPS.***

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

1 Section 1. Subdivision (5) of subsection (b) of section 17a-408 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective July 1, 2019*):

4 (5) (A) Represent the interests of the residents, [and of] including,
5 but not limited to, appearing (i) as a party representing nursing home
6 residents pursuant to section 19a-542, as amended by this act, (ii) at
7 any public hearing related to a nursing home closure scheduled
8 pursuant to section 17b-353, as amended by this act, or (iii) at a
9 receivership hearing scheduled pursuant to section 19a-545, as
10 amended by this act, (B) represent applicants in relation to issues
11 concerning applications to long-term care facilities [,] and before
12 governmental agencies, and (C) seek administrative, legal and other
13 remedies to protect the health, safety, welfare and rights of the
14 residents;

15 Sec. 2. Subsection (d) of section 17b-353 of the general statutes is
16 repealed and the following is substituted in lieu thereof (*Effective July*
17 *1, 2019*):

18 (d) Except as provided in this subsection, no facility shall be allowed
19 to close or decrease substantially its total bed capacity until such time
20 as a public hearing has been held in accordance with the provisions of
21 this subsection and the Commissioner of Social Services has approved
22 the facility's request unless such decrease is associated with a census
23 reduction. The commissioner may impose a civil penalty of not more
24 than five thousand dollars on any facility that fails to comply with the
25 provisions of this subsection. Penalty payments received by the
26 commissioner pursuant to this subsection shall be deposited in the
27 special fund established by the department pursuant to subsection (c)
28 of section 17b-357 and used for the purposes specified in said
29 subsection (c). The commissioner or the commissioner's designee shall
30 hold a public hearing upon the earliest occurrence of: (1) Receipt of
31 any letter of intent submitted by a facility to the department, or (2)
32 receipt of any certificate of need application. Such hearing shall be held
33 at the facility for which the letter of intent or certificate of need
34 application was submitted not later than thirty days after the date on
35 which such letter or application was received by the commissioner.
36 The commissioner or the commissioner's designee shall provide both
37 the facility, the Office of the Long-Term Care Ombudsman and the
38 public with notice of the date of the hearing not less than fourteen days
39 in advance of such date. Notice to the facility shall be by certified mail
40 and notice to the public shall be by publication in a newspaper having
41 a substantial circulation in the area served by the facility. The Long-
42 Term Care Ombudsman, or the Long-Term Care Ombudsman's
43 designee, upon request of any facility resident, shall represent the
44 facility resident at such hearing. The provisions of this subsection shall
45 not apply to any certificate of need approval requested for the
46 relocation of a facility, or a portion of a facility's licensed beds, to a
47 new or replacement facility.

48 Sec. 3. Subsection (c) of section 19a-535 of the general statutes is

49 repealed and the following is substituted in lieu thereof (*Effective July*
50 *1, 2019*):

51 (c) (1) [Before effecting any transfer or discharge of a resident from
52 the facility] Except as provided in subsection (h) of this section, or in
53 the event of an "emergency" as defined in section 19a-541, before
54 effecting any transfer or discharge of a resident from the facility,
55 including any transfer sought pursuant to a receivership proceeding
56 held in accordance with the provisions of sections 19a-541 to 19a-549a,
57 inclusive, the facility shall notify, in writing, the resident and the
58 resident's guardian or conservator, if any, or legally liable relative or
59 other responsible party if known, and the Long-Term Care
60 Ombudsman of the proposed transfer or discharge, the reasons
61 therefor, the effective date of the proposed transfer or discharge, the
62 location to which the resident is to be transferred or discharged, the
63 right to appeal the proposed transfer or discharge and the procedures
64 for initiating such an appeal as determined by the Department of
65 Social Services, the date by which an appeal must be initiated in order
66 to preserve the resident's right to an appeal hearing and the date by
67 which an appeal must be initiated in order to stay the proposed
68 transfer or discharge and the possibility of an exception to the date by
69 which an appeal must be initiated in order to stay the proposed
70 transfer or discharge for good cause, that the resident may represent
71 himself or herself or be represented by legal counsel, a relative, a
72 friend or other spokesperson, and information as to bed hold and
73 nursing home readmission policy when required in accordance with
74 section 19a-537. The notice shall also include the name, mailing
75 address and telephone number of the State Long-Term Care
76 Ombudsman. If the resident is, or the facility alleges a resident is,
77 mentally ill or developmentally disabled, the notice shall include the
78 name, mailing address and telephone number of the nonprofit entity
79 designated by the Governor in accordance with section 46a-10b to
80 serve as the Connecticut protection and advocacy system. The notice
81 shall be given at least thirty days and no more than sixty days prior to
82 the resident's proposed transfer or discharge, except where the health

83 or safety of individuals in the facility are endangered, or where the
84 resident's health improves sufficiently to allow a more immediate
85 transfer or discharge, or where immediate transfer or discharge is
86 necessitated by urgent medical needs or where a resident has not
87 resided in the facility for thirty days, in which cases notice shall be
88 given as many days before the transfer or discharge as practicable.

89 (2) [The] Except as provided in subsection (h) of this section, or in
90 the event of an "emergency" as defined in section 19a-541, the resident
91 may initiate an appeal pursuant to this section by submitting a written
92 request to the Commissioner of Social Services not later than sixty
93 calendar days after the facility issues the notice of the proposed
94 transfer or discharge, [except as provided in subsection (h) of this
95 section.] In order to stay a proposed transfer or discharge, the resident
96 must initiate an appeal not later than twenty days after the date the
97 resident receives the notice of the proposed transfer or discharge from
98 the facility unless the resident demonstrates good cause for failing to
99 initiate such appeal within the twenty-day period.

100 Sec. 4. Subsection (b) of section 19a-542 of the general statutes is
101 repealed and the following is substituted in lieu thereof (*Effective July*
102 *1, 2019*):

103 (b) A resident of a nursing home facility or residential care home for
104 which an application to appoint a receiver has been filed, or such
105 resident's legally liable relative, conservator or guardian, and the
106 Long-Term Care Ombudsman, or the Long-Term Care Ombudsman's
107 designee, may appear as a party to the proceedings.

108 Sec. 5. Subsection (a) of section 19a-545 of the general statutes is
109 repealed and the following is substituted in lieu thereof (*Effective July*
110 *1, 2019*):

111 (a) A receiver appointed pursuant to the provisions of sections 19a-
112 541 to 19a-549, inclusive, in operating a nursing home facility or
113 residential care home, shall have the same powers as a receiver of a
114 corporation under section 52-507, except as provided in subsection (c)

115 of this section and shall exercise such powers to remedy the conditions
116 that constituted grounds for the imposition of receivership, assure
117 adequate health care for the residents and preserve the assets and
118 property of the owner. If such facility or home is placed in receivership
119 it shall be the duty of the receiver to notify each resident and each
120 resident's guardian or conservator, if any, or legally liable relative or
121 other responsible party, if known, and the Long-Term Care
122 Ombudsman. Such receiver may correct or eliminate any deficiency in
123 the structure or furnishings of such facility or home that endangers the
124 safety or health of the residents while they remain in such facility or
125 home, provided the total cost of correction does not exceed three
126 thousand dollars. The court may order expenditures for this purpose
127 in excess of three thousand dollars on application from such receiver.
128 [If any resident is transferred or discharged] Except in an emergency,
129 as defined in section 19a-541, if any resident is scheduled for
130 involuntary transfer or discharge as a result of the receivership such
131 receiver shall provide for: (1) [Transportation] A hearing not less than
132 thirty days before such transfer or discharge at which such resident,
133 such resident's guardian, conservator, other legally liable relative or
134 responsible party and the Long-Term Care Ombudsman or the Long-
135 Term Care Ombudsman's designee may testify and offer evidence on
136 whether such transfer or discharge plan is necessary and mitigates
137 transfer trauma as required pursuant to this subsection; (2)
138 transportation of the resident and such resident's belongings and
139 medical records to the place where such resident is being transferred
140 or discharged; [(2)] (3) aid in locating an alternative placement and
141 discharge planning in accordance with section 19a-535, as amended by
142 this act; [(3)] (4) preparation for transfer to mitigate transfer trauma,
143 including but not limited to, participation by the resident or the
144 resident's guardian, conservator, other legally liable relative or
145 responsible party in the selection of the resident's alternative
146 placement, explanation of alternative placements and orientation
147 concerning the placement chosen by the resident or the resident's
148 guardian; and [(4)] (5) custodial care of all property or assets of
149 residents that are in the possession of an owner of such facility or

150 home. The Long-Term Care Ombudsman shall, at the request of a
151 resident subject to any nonemergency involuntary transfer or
152 discharge, or at the request of such resident's guardian, conservator or
153 other legally liable relative or responsible party, represent the resident
154 at any hearing scheduled pursuant to subdivision (1) of this
155 subsection. The receiver shall preserve all property, assets and records
156 of residents that the receiver has custody of and shall provide for the
157 prompt transfer of the property, assets and records to the alternative
158 placement of any transferred resident. In no event may the receiver
159 transfer all residents and close such facility or home without a court
160 order and without complying with the notice and discharge plan
161 requirements for each resident in accordance with section 19a-535, as
162 amended by this act.

163 Sec. 6. Subsection (b) of section 19a-550 of the general statutes is
164 repealed and the following is substituted in lieu thereof (*Effective July*
165 *1, 2019*):

166 (b) There is established a patients' bill of rights for any person
167 admitted as a patient to any nursing home facility, residential care
168 home or chronic disease hospital. The patients' bill of rights shall be
169 implemented in accordance with the provisions of Sections 1919(b),
170 1919(c), 1919(c)(2), 1919(c)(2)(D) and 1919(c)(2)(E) of the Social Security
171 Act. The patients' bill of rights shall provide that each such patient: (1)
172 Is fully informed, as evidenced by the patient's written
173 acknowledgment, prior to or at the time of admission and during the
174 patient's stay, of the rights set forth in this section and of all rules and
175 regulations governing patient conduct and responsibilities; (2) is fully
176 informed, prior to or at the time of admission and during the patient's
177 stay, of services available in such facility or chronic disease hospital,
178 and of related charges including any charges for services not covered
179 under Titles XVIII or XIX of the Social Security Act, or not covered by
180 basic per diem rate; (3) in such facility or hospital is entitled to choose
181 the patient's own physician or advanced practice registered nurse and
182 is fully informed, by a physician or an advanced practice registered
183 nurse, of the patient's medical condition unless medically

184 contraindicated, as documented by the physician or advanced practice
185 registered nurse in the patient's medical record, and is afforded the
186 opportunity to participate in the planning of the patient's medical
187 treatment and to refuse to participate in experimental research; (4) in a
188 residential care home or a chronic disease hospital is transferred from
189 one room to another within such home or chronic disease hospital only
190 for medical reasons, or for the patient's welfare or that of other
191 patients, as documented in the patient's medical record and such
192 record shall include documentation of action taken to minimize any
193 disruptive effects of such transfer, except a patient who is a Medicaid
194 recipient may be transferred from a private room to a nonprivate
195 room, provided no patient may be involuntarily transferred from one
196 room to another within such home or chronic disease hospital if (A) it
197 is medically established that the move will subject the patient to a
198 reasonable likelihood of serious physical injury or harm, or (B) the
199 patient has a prior established medical history of psychiatric problems
200 and there is psychiatric testimony that as a consequence of the
201 proposed move there will be exacerbation of the psychiatric problem
202 that would last over a significant period of time and require
203 psychiatric intervention; and in the case of an involuntary transfer
204 from one room to another within such home or chronic disease
205 hospital, the patient and, if known, the patient's legally liable relative,
206 guardian or conservator or a person designated by the patient in
207 accordance with section 1-56r, is given not less than thirty days' and
208 not more than sixty days' written notice to ensure orderly transfer
209 from one room to another within such home or chronic disease
210 hospital, except where the health, safety or welfare of other patients is
211 endangered or where immediate transfer from one room to another
212 within such home or chronic disease hospital is necessitated by urgent
213 medical need of the patient or where a patient has resided in such
214 home or chronic disease hospital for less than thirty days, in which
215 case notice shall be given as many days before the transfer as
216 practicable; (5) is encouraged and assisted, throughout the patient's
217 period of stay, to exercise the patient's rights as a patient and as a
218 citizen, and to this end, has the right to be fully informed about

219 patients' rights by state or federally funded patient advocacy
220 programs, and may voice grievances and recommend changes in
221 policies and services to nursing home facility, residential care home or
222 chronic disease hospital staff or to outside representatives of the
223 patient's choice, free from restraint, interference, coercion,
224 discrimination or reprisal; (6) shall have prompt efforts made by such
225 nursing home facility, residential care home or chronic disease hospital
226 to resolve grievances the patient may have, including those with
227 respect to the behavior of other patients; (7) may manage the patient's
228 personal financial affairs, and is given a quarterly accounting of
229 financial transactions made on the patient's behalf; (8) is free from
230 mental and physical abuse, corporal punishment, involuntary
231 seclusion and any physical or chemical restraints imposed for
232 purposes of discipline or convenience and not required to treat the
233 patient's medical symptoms. Physical or chemical restraints may be
234 imposed only to ensure the physical safety of the patient or other
235 patients and only upon the written order of a physician or an
236 advanced practice registered nurse that specifies the type of restraint
237 and the duration and circumstances under which the restraints are to
238 be used, except in emergencies until a specific order can be obtained;
239 (9) is assured confidential treatment of the patient's personal and
240 medical records, and may approve or refuse their release to any
241 individual outside the facility, except in case of the patient's transfer to
242 another health care institution or as required by law or third-party
243 payment contract; (10) receives quality care and services with
244 reasonable accommodation of individual needs and preferences,
245 except where the health or safety of the individual would be
246 endangered, and is treated with consideration, respect, and full
247 recognition of the patient's dignity and individuality, including
248 privacy in treatment and in care for the patient's personal needs; (11) is
249 not required to perform services for the nursing home facility,
250 residential care home or chronic disease hospital that are not included
251 for therapeutic purposes in the patient's plan of care; (12) may
252 associate and communicate privately with persons of the patient's
253 choice, including other patients, send and receive the patient's

254 personal mail unopened and make and receive telephone calls
255 privately, unless medically contraindicated, as documented by the
256 patient's physician or advanced practice registered nurse in the
257 patient's medical record, and receives adequate notice before the
258 patient's room or roommate in such facility, home or chronic disease
259 hospital is changed; (13) is entitled to organize and participate in
260 patient groups in such facility, home or chronic disease hospital and to
261 participate in social, religious and community activities that do not
262 interfere with the rights of other patients, unless medically
263 contraindicated, as documented by the patient's physician or advanced
264 practice registered nurse in the patient's medical records; (14) may
265 retain and use the patient's personal clothing and possessions unless to
266 do so would infringe upon rights of other patients or unless medically
267 contraindicated, as documented by the patient's physician or advanced
268 practice registered nurse in the patient's medical record; (15) is assured
269 privacy for visits by the patient's spouse or a person designated by the
270 patient in accordance with section 1-56r and, if the patient is married
271 and both the patient and the patient's spouse are inpatients in the
272 facility, they are permitted to share a room, unless medically
273 contraindicated, as documented by the attending physician or
274 advanced practice registered nurse in the medical record; (16) is fully
275 informed of the availability of and may examine all current state, local
276 and federal inspection reports and plans of correction; (17) may
277 organize, maintain and participate in a patient-run resident council, as
278 a means of fostering communication among residents and between
279 residents and staff, encouraging resident independence and
280 addressing the basic rights of nursing home facility, residential care
281 home and chronic disease hospital patients and residents, free from
282 administrative interference or reprisal; (18) is entitled to the opinion of
283 two physicians concerning the need for surgery, except in an
284 emergency situation, prior to such surgery being performed; (19) is
285 entitled to have the patient's family or a person designated by the
286 patient in accordance with section 1-56r meet in such facility,
287 residential care home or chronic disease hospital with the families of
288 other patients in the facility to the extent such facility, residential care

289 home or chronic disease hospital has existing meeting space available
290 that meets applicable building and fire codes; (20) is entitled to file a
291 complaint with the Department of Social Services and the Department
292 of Public Health regarding patient abuse, neglect or misappropriation
293 of patient property; (21) is entitled to have psychopharmacologic drugs
294 administered only on orders of a physician or an advanced practice
295 registered nurse and only as part of a written plan of care developed in
296 accordance with Section 1919(b)(2) of the Social Security Act and
297 designed to eliminate or modify the symptoms for which the drugs are
298 prescribed and only if, at least annually, an independent external
299 consultant reviews the appropriateness of the drug plan; (22) is
300 entitled to be transferred or discharged from the facility only pursuant
301 to section 19a-535, as amended by this act, 19a-535a or 19a-535b, as
302 applicable, and, in the case of any nonemergency involuntary transfer
303 or discharge as a result of a nursing home receivership, only after the
304 patient or the patient's designated representative has been afforded a
305 right to a hearing, in accordance with section 19a-545, as amended by
306 this act; (23) is entitled to be treated equally with other patients with
307 regard to transfer, discharge and the provision of all services
308 regardless of the source of payment; (24) shall not be required to waive
309 any rights to benefits under Medicare or Medicaid or to give oral or
310 written assurance that the patient is not eligible for, or will not apply
311 for benefits under Medicare or Medicaid; (25) is entitled to be provided
312 information by the nursing home facility or chronic disease hospital as
313 to how to apply for Medicare or Medicaid benefits and how to receive
314 refunds for previous payments covered by such benefits; (26) is
315 entitled to receive a copy of any Medicare or Medicaid application
316 completed by a nursing home facility, residential care home or chronic
317 disease hospital on behalf of the patient or to designate that a family
318 member, or other representative of the patient, receive a copy of any
319 such application; (27) on or after October 1, 1990, shall not be required
320 to give a third-party guarantee of payment to the facility as a condition
321 of admission to, or continued stay in, such facility; (28) is entitled to
322 have such facility not charge, solicit, accept or receive any gift, money,
323 donation, third-party guarantee or other consideration as a

324 precondition of admission or expediting the admission of the
325 individual to such facility or as a requirement for the individual's
326 continued stay in such facility; and (29) shall not be required to deposit
327 the patient's personal funds in such facility, home or chronic disease
328 hospital.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2019</i>	17a-408(b)(5)
Sec. 2	<i>July 1, 2019</i>	17b-353(d)
Sec. 3	<i>July 1, 2019</i>	19a-535(c)
Sec. 4	<i>July 1, 2019</i>	19a-542(b)
Sec. 5	<i>July 1, 2019</i>	19a-545(a)
Sec. 6	<i>July 1, 2019</i>	19a-550(b)

Statement of Purpose:

To give nursing home residents subject to involuntary transfer or discharge due to a nursing home closure or receivership a greater voice.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]