



PA 26-74—sSB 123

Aging Committee

AN ACT CONCERNING PUBLIC HEARINGS FOR CERTAIN RATE INCREASES AT ASSISTED LIVING FACILITIES, MUNICIPAL AGENTS FOR AGING, EMERGENCY POWER GENERATOR REQUIREMENTS FOR CERTAIN MULTIFAMILY HOUSING PROJECTS, PERSONAL PROTECTIVE EQUIPMENT FOR HOME HEALTH AIDE EMPLOYEES, THE NURSING HOME BED MORATORIUM AND NURSING HOME RESIDENT DATA

SUMMARY: This act makes various unrelated changes to laws related to older adults, including:

1. requiring assisted living services agencies (ALSAs) to hold informational hearings before raising fees by more than 10% (§ 1),
2. requiring municipal agents for the elderly (which the act renames “agents for aging”) to be free from conflicts of interest (§ 2),
3. changing the applicability of an existing requirement that certain multifamily age-restricted buildings with at least 15 stories have a backup generator (§ 3),
4. requiring home health aide agencies to give their employees certain personal protective equipment for free (§ 4),
5. creating an exception to the state’s nursing home bed moratorium and modifying related certificate of need (CON) criteria (§§ 5 & 6), and
6. establishing a process for the Department of Social Services (DSS) to audit nursing homes’ minimum data set information that is different than its process for auditing other long-term care facilities that receive Medicaid (§ 7).

EFFECTIVE DATE: Various; see below.

§ 1 — HEARING ON ASSISTED LIVING SERVICES FEE INCREASES

The act requires ALSAs to hold an informational hearing if an existing fee increases by more than 10%. The hearing must (1) occur at least 30 days before the increase takes effect and (2) give residents, their representatives, and family members an opportunity to comment.

Under existing law, ALSAs must disclose fee increases to residents or their representatives at least 60 days before they take effect. But ALSAs may immediately adjust fees if (1) they are directly related to a change in the level of care or services needed to meet a resident’s safety needs at the time of a scheduled resident care meeting or (2) a resident’s condition changes so that it requires a change in service.

EFFECTIVE DATE: October 1, 2026

§ 2 — MUNICIPAL AGENT CONFLICTS OF INTEREST

By law, each municipality must appoint a municipal agent to help seniors learn about community resources and file for benefits, among other things. The act makes several changes in the law on these agents. Specifically, it:

1. prohibits appointing or reappointing anyone as a municipal agent who has an existing or potential conflict of interest and establishes a process to handle conflicts that happen after an agent is appointed;
2. allows municipalities to jointly appoint agents, rather than requiring each municipality to have its own, by entering into a memorandum of understanding that may lay out terms (for example, sharing agent expenses); and
3. renames them “municipal agents for aging” (rather than “municipal agents for elderly persons”) and replaces the term “elderly” with “older adults” throughout.

EFFECTIVE DATE: Upon passage

Covered Conflicts of Interest

The act requires anyone appointed as a municipal agent to be free of any existing or potential conflicts of interest that could interfere with his or her ability to give unbiased information, help, or referral services.

Under the act, a conflict of interest exists if the agent, a business associated with the agent, or a member of the agent’s immediate family (spouse, parent, sibling, child, or child’s spouse) receives a financial or personal benefit. Other situations may also be conflicts of interest under the act.

Certification

Beginning July 1, 2026, the act requires each municipal agent to certify in writing that he or she is unaware of any conflict of interest or potential conflict of interest that could interfere with his or her ability to serve in this role, as described above. Agents must make this certification when they are appointed or reappointed and submit it to the Department of Aging and Disability Services (ADS) commissioner in the way she sets.

Conflicts That Arise

If a conflict of interest, or the potential for one, arises after an agent has been appointed, the act requires the agent to immediately report it to the appointing authority (the municipality or municipalities). It allows other interested parties to report an agent’s conflict of interest, or a potential one, as well.

The act requires the appointing authority to decide whether the conflict of interest would be nullified by having another municipal agent or a municipal employee act instead of the potentially conflicted agent. In doing so, the appointing

authority may consult with ADS.

§ 3 — EMERGENCY GENERATOR REQUIREMENT

By law, privately owned multifamily housing projects must have at least one emergency power generator if they (1) have at least 15 stories, age-restricted units, and a mortgage insured under the federal National Housing Act and (2) are in a municipality that has a population size that falls within a specified range. Under prior law, this range was between 130,000 and 134,999. Under the act, it is between 130,000 and 139,999 and based on the 2020 federal census (see BACKGROUND).
EFFECTIVE DATE: October 1, 2026

§ 4 — PPE FOR HOME HEALTH AIDES

The act requires home health aide agencies to give their home health aide employees and contractors free personal protective equipment (PPE) that they need to safely provide home health aide services to each client. These may include, among other things, (1) disposable gloves; (2) hand sanitizer; (3) aprons, gowns, and foot covers; and (4) face shields, surgical masks, N95 masks, or higher-rated masks that are certified by the National Institute for Occupational Safety and Health.

By law, a home health aide agency provides supportive services in a patient's home or a similar environment. These services may include assisting with personal hygiene, dressing, feeding, and incidental household management tasks, but exclude assisting individuals with their daily living activities when they have a chronic and stable disease or condition. Services must be provided under the supervision of a registered nurse.

EFFECTIVE DATE: October 1, 2026

§§ 5 & 6 — NURSING HOME BEDS MORATORIUM AND CON CRITERIA

The act creates an exception to the state's nursing home bed moratorium, allowing DSS to approve additional Medicaid-certified beds in existing or new nursing homes under certain circumstances. Relatedly, it also modifies the factors the DSS commissioner must consider when reviewing certificate of need (CON) applications, including those for additional beds.

EFFECTIVE DATE: Upon passage

Nursing Home Bed Moratorium Exception

Existing law establishes a nursing home bed moratorium that generally prohibits DSS from accepting or approving CON requests for more nursing home beds, with certain exceptions, such as beds (1) used by patients with AIDS or who require neurological rehabilitation and (2) associated with a continuing care facility that are not used for Medicaid patients.

The act adds a new exception that allows DSS to approve a request to add new

Medicaid-certified beds to existing or new nursing homes. When doing so, the department must give preference to nontraditional, small-house style nursing homes whose goals are in keeping with the department's long-term care strategic plan to address facility needs in priority census tracts.

CON Criteria

By law, nursing homes, rest homes, and intermediate care facilities for people with intellectual disabilities generally need CON approval from DSS when (1) introducing new services, (2) changing ownership, (3) relocating licensed beds or decreasing bed capacity, (4) terminating a service, or (5) incurring certain capital expenditures.

Under existing law and the act, the DSS commissioner must consider several factors when reviewing CON requests, such as whether there is clear public need for the proposed action. When determining public need for requests to add new Medicaid-certified beds under the act, the commissioner must consider whether there is a demonstrated bed need in the towns within a 15-mile radius of the town where the new beds will be added. (Existing law also requires the commissioner to do this when considering requests to relocate beds to a replacement nursing home.)

For all CON requests, existing law requires the commissioner to consider how a request contributes to regional long-term care delivery quality, accessibility, and cost-effectiveness. Under the act, in making this consideration, she must include the requesting nursing home's star rating on the Centers for Medicare and Medicaid Service's (CMS) five-star quality rating system for nursing homes.

The act also modifies how bed need is determined for CON requests. Under the act, a service area with a demonstrated bed need is one whose nursing home occupancy is above 96% for at least two consecutive quarters. The DSS commissioner may also consider the service area's projected future bed need above 96% occupancy using its latest strategic statewide long-term care rebalancing plan. Previously, demonstrated bed need was based on a service area's nursing home occupancy (with no percentage specified) and projected bed need for up to five years at 97.5% occupancy using the (1) Office of Policy and Management's latest population projections by town and age and (2) Department of Public Health's latest available nursing home utilization statistics by age cohort.

§ 7 — NURSING HOME MINIMUM DATA SET AUDITS

Existing law sets procedures and requirements related to DSS audits of long-term care facilities that receive Medicaid or other state payments (for example, nursing homes, residential care homes, and intermediate care facilities for people with intellectual disabilities).

The act establishes a different process for DSS audits of nursing homes' minimum data set (MDS) information. Federal law requires nursing homes to assess each resident's functional capacity using the MDS assessment tool and DSS then uses the information to calculate nursing homes' acuity-based Medicaid reimbursement rates. (Generally, acuity-based rates refer to rates that vary based

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on, among other things, the facility's patient case mix.)
EFFECTIVE DATE: July 1, 2026

Deadline to Provide Information

Under the act, if DSS requests documentation related to an MDS audit, the nursing home must provide it within 10 days. For other types of audits, existing law gives facilities at least 30 days to provide documentation on any discrepancies found during the audit.

Limitation on Post-Exit Interview Submissions

Under existing law, unchanged by the act, the commissioner must prepare a preliminary report on an audit's findings. She must then hold an exit conference with the audited facility to discuss the preliminary report, and the facility may present evidence refuting the report's findings. For MDS audits, the act prohibits nursing homes from giving the commissioner any more documentation after the exit conference, unless the commissioner and nursing home agree to it.

BACKGROUND

According to the 2020 federal census, New Haven and Stamford have populations between 130,000 and 139,999. Only New Haven had a population within the prior law's range.