

Legislative History for Connecticut Act

**PA 14-209**

SB410

House	6959-6962	4
Senate	2067-2073, 2157	8
Human Services	827, 829-830, 878, 880, <u>951-952, 955-957, 978-979</u>	12

**H – 1201**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2014**

**VOL.57  
PART 21  
6912 – 7260**

Those absent and not voting 6

DEPUTY SPEAKER GODFREY:

The bill, as amended, is passed.

Representative Aresimowicz.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

Mr. Speaker, I move that we immediately transmit to the Senate any items waiting further action.

DEPUTY SPEAKER GODFREY:

Without objection, so ordered.

Representative Aresimowicz, I understand we have another Consent Calendar.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

We are. We are about to list off the bills that will be included in our second Consent Calendar for the evening, sir.

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

I move -- I'd to add the following to the Consent Calendar. Calendar 426, Calendar 308, Calendar 438, Calendar 488 --

SB281

SB19

SB182

SB330

DEPUTY SPEAKER GODFREY:

Whoa, whoa, whoa.

REP. ARESIMOWICZ (30th):

I apologize, Mr. Speaker. The first number was  
427.

DEPUTY SPEAKER GODFREY:

So 427, thank you, sir. Proceed.

REP. ARESIMOWICZ (30th):

Calendar 476, as amended by Senate "A"; Calendar  
445, Calendar 514, Calendar 505, as amended by Senate  
"A"; Calendar 455, Calendar 456, as amended by Senate  
"A"; Calendar 322, Calendar 536, as amended by Senate  
"A" and Senate "B"; Calendar 430, Calendar 520, as  
amended by Senate "A" and Senate "B"; Calendar 538, as  
amended by Senate "A"; Calendar 424, as amended by  
Senate "A"; Calendar 439, as amended by Senate "A";  
Calendar 482, as amended by Senate "A"; Calendar 325,  
as amended by Senate "A."

Calendar 526, as amended by Senate "A"; Calendar  
509, as amended by Senate "A"; Calendar 532, Calendar  
502, as amended by Senate "A"; Calendar 421, as  
amended by Senate "A"; Calendar 431, as amended by  
Senate "A"; and Calendar 539, as amended by Senate  
"A."

SB 194  
SB 402  
SB 324  
SB 45  
SB 221  
SB 257  
SB 201  
SB 389  
SB 418  
SB 438  
SB 427  
SB 260  
SB 208  
SB 424  
SB 241  
SB 14  
SB 106  
SB 322  
SB 410  
SB 217  
SB 477  
SB 429

DEPUTY SPEAKER GODFREY:

Is there objection to any of these items being placed on the Consent Calendar? If not, Representative Aresimowicz, would you like to move passage of the Consent Calendar?

REP. ARESIMOWICZ (30th):

Mr. Speaker, I want to remove Calendar 539.

SB429

DEPUTY SPEAKER GODFREY:

Please remove Calendar 539, Mr. Clerk.

REP. ARESIMOWICZ (30th):

Mr. Speaker, I move passage of the bills on the second Consent Calendar of the day.

DEPUTY SPEAKER GODFREY:

The question is on passage of the items on Consent Calendar Number 2.

Staff and guests please come to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll on the second Consent Calendar of the day, House Consent 2. Please report to the Chamber immediately.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members  
voted?

If all the members have voted, the machine will  
be locked.

The Clerk will take a tally.

And the Clerk will announce the tally.

THE CLERK:

Consent Calendar Number 2.

Total Number Voting                    147

Necessary for Passage                    74

Those voting Yea                        147

Those voting Nay                         0

Those absent and not voting            4

DEPUTY SPEAKER GODFREY:

The items on the Consent Calendar are passed.

(Speaker Sharkey in the Chair.)

SPEAKER SHARKEY:

The House will please come back to order.

Will the Clerk please call Emergency Certified  
Bill 5597.

THE CLERK:

**S - 675**

**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2014**

**VOL. 57  
PART 7  
1971 - 2310**

rgd/gbr  
SENATE

179  
May 1, 2014

Mr. Clerk.

THE CLERK:

On page 39, Calendar 268, Substitute for Senate Bill Number 410, AN ACT CONCERNING ADMINISTRATIVE HEARINGS CONDUCTED BY THE DEPARTMENT OF SOCIAL SERVICES, favorable report of the Committee on Human Services. There are amendments.

THE CHAIR:

Senator Slossberg, good evening.

SENATOR SLOSSBERG:

Good evening, Madam President.

I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

The motion is on acceptance and passage. Will you remark?

SENATOR SLOSSBERG:

Yes, thank you, Madam President.

The Clerk has in his possession LCO Number 4571. I would ask that that be called and I be given the ability to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 4571, Senate "A", offered by Senator Slossberg and Representative Abercrombie.

THE CHAIR:

Senator Slossberg.

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SENATE

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May 1, 2014

SENATOR SLOSSBERG:

Yes, thank you, Madam President.

I move adoption.

THE CHAIR:

The motion is on adoption. Will you remark, Ma'am?

SENATOR SLOSSBERG:

Yes. This -- this technical amendment removes the fiscal note and strikes the section of bill underlying -- of the main bill that relates to that fiscal note.

THE CHAIR:

Will you remark? Will you remark?

Senator -- no. All in favor then of the amendment please say aye.

SENATORS:

Aye.

THE CHAIR:

Opposed?

Amendment passes.

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, thank you, Madam President.

Now this bill basically makes a number of changes in the hearing process for the Department of Social Services to make it more fair to those requesting a review of an agency decision. It allows more people to request a hearing. It makes it easy to request a hearing by allowing such requests to be made by mail, telephone or electronic means.

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SENATE

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It lengthens from 30 to 45 days the number of days within which DSS must hold a hearing after the receiving of a request. It caps at three the number of allowable continuances. It broadens the circumstances in which the aggrieved person may be excused from appearing personally at the hearing and it also, during the course of a contested proceeding, prohibits the hearing officer from having conversations with any other person from the agency about issues of fact or law without advance notice to the parties which is also commonly referred to as ex parte communications.

This bill will make it fair and simpler for our constituents to have review at the Department of Social Services and I would urge -- urge its passage.

THE CHAIR:

Will you remark?

Senator Markley, good evening, sir.

SENATOR MARKLEY:

Good evening, Madam President.

I would simply rise to say that I think that every aspect of this bill an improvement. We've been able to do some things that I think will improve the function of state agencies which is an opportunity that we have in the Human Services Committee in a very bipartisan way and this bill is a modest result of that process and I urge its passage.

Thank you.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

Senator Kelly.

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SENATE

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SENATOR KELLY:

Thank you, Madam President.

Through you, I have a question to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR KELLY:

Thank you very much.

I heard you introducing the bill indicating something with regards to continuances. Was there a limitation placed on the number of continuances that an applicant can make with regards to a hearing?

Through you, Madam President.

THE CHAIR:

Senator Slossberg.

Yes, thank you. Through you, Mr. President -- Madam President, yes there are limitations to three -- to three continuances.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Is there any I'm going to say escape language or circumstances under which they could ask for more because I'm thinking of situations where we have community spouses in -- in a -- circumstances where they're looking at a spousal assessment and they may not know their income and ask for continuances until such time as they can get that information and have to ask for a number of continuances in order to do that?

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Is there either an ability to override that three or is there a way that, under certain circumstances, it could be extended?

Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, thank you, Madam President.

If you just give me a second, I'm going to just review the language.

Yes, thank you, Madam President.

Through you, it -- it says that a reasonable period of continuance of hearing scheduled pursuant to this section may be granted for good cause provided not more than three continuances shall be granted.

So the language though doesn't delineate how long that continuance could be. So in the situation that you're speaking about I would expect that knowing that you're going -- it's going to take some time to be able to get the information that they're waiting for they would be able to get a reasonable -- a reasonable period of time for that continuance.

THE CHAIR:

Senator Kelly.

Oh I'm sorry, Senator Slossberg.

SENATOR SLOSSBERG:

That's all right.

THE CHAIR:

Senator Kelly.

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SENATOR KELLY:

Thank you, Madam President.

Okay, so -- and you know I'm doing this now for legislative intent so if an applicant has an appeal and we know that it's going to be a certain time period, that we would want to work with the Department because they can only grant it up to three times a -- a continuance.

So there would be -- you would want to work with the Department so that you wouldn't exhaust your three continuances and that that would be allowable conduct for the applicant to engage in.

Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, thank you, Madam President.

Yes, that would be correct.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President. I have no further questions.

THE CHAIR:

Thank you.

Senator Slossberg.

SENATOR SLOSSBERG:

Yes. If there is no objection, I would ask that

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this item be placed on the Consent Calendar.

THE CHAIR:

Seeing no objection, right -- seeing no objection,  
so ordered.

Senator Doyle.

SENATOR DOYLE:

Thank you, Madam President.

May the Senate stand at ease for a moment.

THE CHAIR:

The Senate will stand at ease.

SENATOR DOYLE:

Thank you.

(Chamber at ease.)

THE CHAIR:

Just to notify the Senate we are going to stand at  
ease for a very -- a little long time.

(Chamber at ease.)

THE CHAIR:

The Senate come back to order.

Good evening, everyone.

Good evening, Senator Looney.

SENATOR LOONEY:

Good evening, Madam President.

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SENATE

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May 1, 2014

309. Page 39, Calendar Number 6, 268, Senate Bill  
410.

THE CHAIR:

Madam Clerk, will you now call for the roll call vote on the Consent Calendar? And the machine will be open.

THE CLERK:

There will be an immediate roll call vote in the Senate for the Consent Calendar Number 1. Immediate roll call vote has been ordered in the Senate. All Senators report to the Chamber.

THE CHAIR:

Senator Boucher.

THE CLERK:

Immediate roll call vote has been ordered in the Senate for the Consent Calendar. Immediate roll call vote in the Senate.

THE CHAIR:

If all members have voted, all members have voted, the machine will be closed.

Madam Clerk, will you please call the tally?

THE CLERK:

All those voting on consent Calendar 1.

Total Number Voting	35
Necessary for Adoption	18
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

The Consent Calendar has passed.

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**HUMAN  
SERVICES  
PART 2  
505 – 933**

**2014**

1  
dr/gbr HUMAN SERVICES COMMITTEE

March 11, 2014  
12:00 P.M.

CHAIRMEN: Senator Slossberg  
Representative Abercrombie

MEMBERS PRESENT:

SENATORS: Markley

REPRESENTATIVES: Bowles, Butler, Case, Cook,  
P. Miller, Morris,  
E. Ritter, Rutigliano,  
H. Santiago, Stallworth,  
Wood

REP. ABERCROMBIE: -- the public hearing for the  
Human Services Committee.

With that, we'd like to start with Commissioner  
Bremby.

Thank you so much for being here, sir.

COMMISSIONER RODERICK BREMBY: -- and distinguished  
members of the Human Services Committee.

My name is Rod Bremby. I'm the Commissioner of  
the Connecticut Department of Social Services  
and I'm pleased to be before you today to  
testify on two bills raised on behalf of the  
department. In addition, we offer written  
comments on several other bills on today's  
agenda that impacts the agency.

Starting with Senate Bill 406, AN ACT  
CONCERNING CERTIFICATES OF NEED FOR NURSING  
HOMES. The proposed legislation deletes  
obsolete provisions, makes technical changes to  
the department's certificate of needs statutes,  
and arranges the statutes in a more logical and  
cohesive format.

The proposal also removes the requirement for

SB408  
HB5445  
HB5447  
SB407

SB410  
SB321  
SB326  
SB327  
SB329

area.

The department further proposes to remove the requirement for a public hearing when the closures are trivial to occupancy of less than 75 percent because once census has decreased below this level, it's very difficult for the facility to remain fiscal or financial viability and may lead to health and safety concerns impacting residents. Also rapid decline in census indicates that there are beds available for residents in the service area.

The proposed Section 17b-354a establishes the time period for which a CON is valid. The process for requesting an extension of CON requirements were demonstrated and construction has begun and the department's ability to withdraw, revoke, or rescind the certificate of need.

Upon review of the raised bill, the department has identified some amended technical corrections which are amended to written remarks for your clarification. And lastly we ask for your support for this bill.

Senate Bill 410, AN ACT CONCERNING ADMINISTRATIVE HEARINGS CONDUCTED BY THE DEPARTMENT OF SOCIAL SERVICES. This bill updates the DSS fair hearings procedures for clarity, efficiency, and consistency with federal law. Moreover, several of the changes being proposed will ease the burden on clients by allowing additional methods by which they may request hearings and greater flexibility in when they are required to attend.

Specifically the bill proposes the following. In Section 1, expand the ways in which client hearings may be requested to include by mail, phone, or other means as contemplated under the

ACA, specifies who may request a hearing on behalf of a client.

Under current law, requests for a hearing must be mailed to the Commissioner within 60 days after the date of the decision being contested.

In order to accommodate an anticipated change in our new eligibility management system without affecting clients, this proposal provides a hearing request must be received by the department within 65 days of the date of decision, which expands the number of days by five.

This proposal increases the number of days within which the department must schedule a hearing from 30 to 45 days and limits the number of continuances that may be granted to three. The proposal also provides that a client need not be present if represented by legal counsel and if not needed to testify. Lastly, the proposal allows testimony by phone in the hearing officer's discretion.

Section 2 makes clarifications that are not substantive changes to practice.

Section 3 specifies that decisions that may be contested under the section are those that involve the issuance of a payment rate to a provider and deletes some obsolete language. We ask for your support of this bill.

Other legislation impacting the department, Senate Bill Number 321; AN ACT CONCERNING MEDICAID COST SAVINGS. This bill would create a task force charged with reviewing best practices concerning Medicaid cost savings. We have no objections to working with our partners to identify additional cost savings that may be achieved within the Medicaid program.

So your help, your support would be greatly appreciated.

SENATOR SLOSSBERG: Thank you very much for your testimony. I appreciate you being here.

Are there questions?

Cathy.

REP. ABERCROMBIE: No.

SENATOR SLOSSBERG: No questions? No, okay.

BRUCE BAXTER: Thank you so much.

SENATOR SLOSSBERG: Thank you very much.

Before we move on to the next bill, we're just going to scooch back for one second to Senate Bill 406, and call Mag Morelli, and that wraps up that bill and then we can do telemonitoring all in one group. I think that makes more sense for the speakers and the committee members.

Good afternoon, Mag.

MAG MORELLI: Thank you.

I apologize for being late. Members of the committee, my name is Mag Morelli, and I'm the president of LeadingAge Connecticut, a state-wide membership organization representing over 130 mission-driven and not-for-profit provider organizations serving older adults across the continuum of long-term care, services, and supports and including senior housing.

I've submitted testimony on several bills today and I wanted to speak to Senate Bill 406, AN

SB410  
HB5445  
SB325  
SB327  
SB326

The bill raises questions and opens many opportunities for thoughtful discussion on issues that will affect the future of the nursing home field. We would be happy to work with the Department of Social Services on developing language that meets the goals of simplification and at the same time creates workable and relevant requirements.

And we'd like to reiterate our long-standing position that the state regulatory and reimbursement systems must allow for nursing home modernization that consumers are demanding.

We've also submitted testimony objecting to a portion of Senate Bill 410; in support of House Bill 5445, the telemonitoring bill; and then in support of 325, 327, and 326 with the acts concerning long-term care in nursing homes and federal Medicaid waivers, all within -- in support all within the context of all of the planning that's already being done.

So thank you very much. I'd be glad to answer any questions.

SENATOR SLOSSBERG: Okay. Thank you. Thank you for your testimony, and I know that you've submitted extensive written testimony. So we appreciate it and we appreciate your advocacy.

I don't see any questions, so thank you.

MAG MORELLI: Thank you.

SENATOR SLOSSBERG: Okay. We're on to House Bill 5445, and our first speaker is Deb Hoyt followed by Tracy Wodatch.

Good afternoon.

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**HUMAN  
SERVICES  
PART 3  
934 – 1259**

**2014**



000951

T7  
page 4, line 16

Testimony to the Human Services Committee

Presented by Mag Morelli, President of LeadingAge Connecticut

March 11, 2014

Regarding

- SB 406, An Act Concerning Certificates of Need for Nursing Homes
- SB 410, An Act Concerning Administrative Hearings Conducted by the Department of Social Services
- HB 5445, An Act Concerning Medicaid Coverage of Telemonitoring Services
- SB 325, An Act Concerning Long-Term Care
- SB 327, An Act Concerning Nursing Homes
- SB 326, An Act Concerning Federal Medicaid Waivers

Good afternoon Senator Slossberg, Representative Abercrombie, and members of the Human Services Committee. My name is Mag Morelli and I am the President of LeadingAge Connecticut, a statewide membership organization representing over 130 mission-driven and not-for-profit provider organizations serving older adults across the continuum of long term care, services and supports and including senior housing. On behalf of LeadingAge Connecticut, I would like to testify on several of the bills that are before you today and offer the Committee our assistance as you consider these various issues.

SB 406, An Act Concerning Certificates of Need for Nursing Homes

This bill presents a complete revision to the current certificate of need (CON) statutes that pertain to nursing homes and continuing care retirement communities (CCRCs). While LeadingAge Connecticut agrees that it makes sense to update and clarify the CON statutes and supports the Department of Social Services' effort to streamline and modernize the CON statutes, we cannot support this bill as it is presented.

We do have a few specific concerns about the bill that we would like to raise today. First, it is unclear what is intended by the reference in Section 1(b) to a pilot competitive procurement process of up to 35 beds. If this provision is intended to address areas of bed need in the state, then a competitive procurement process of 35 beds may be too simplistic a solution. This is a complex issue with multiple potential solutions.

Second, we understand that the bill simplifies the CON moratorium exception for beds added to a continuing care retirement community (CCRC) and makes other changes to the CCRC statutes. We do have questions, however, about Section 12, which imposes newly modified restrictions on the admission of non-CCRC residents into the CCRC-based nursing home. This section appears to apply to all CCRCs but does not take into account the fact that many established CCRCs have nursing homes

that have admitted outside residents without any restrictions for years. LeadingAge Connecticut is concerned about this provision and the other provisions in this bill related to CCRCs since we count among our members all of the not-for-profit CCRCs in this state.

This bill raises many questions and opens many opportunities for thoughtful discussion on issues that will affect the future of the nursing home field. We would be happy to work with the Department of Social Services on developing language that meets the goals of simplification and, at the same time, creates workable and relevant requirements.

We would like to reiterate our long standing position that the state's regulatory and reimbursement systems must allow for the nursing home modernization that consumers are demanding.

To encourage providers of the long term care continuum to adjust, modernize and diversify their models of care, we propose that the state go beyond the rightsizing grant program and create a collaborative and efficient regulatory and reimbursement environment for all nursing home providers. An environment that is adaptive and receptive to individual providers forward thinking ideas and planning will encourage rightsizing initiatives beyond the state funded grant program. For providers who are seeking to make innovative changes that are in line with our state's strategic initiatives, the state must work to streamline and coordinate all regulatory processes and adapt to a more integrated system of care delivery.

We cannot afford to continue to ignore the nursing home level of care that is and will be needed in the future and therefore the call for modernization of the state's nursing homes is crucial. We need to actively plan and build a model and infrastructure of nursing home care that makes sense for the future needs and demands of our long term care system moving forward. Modernization efforts will allow nursing homes to create the modern-day systems and services that are desired by consumers and which are required in the new system of health care reform. Greenhouse models, culture change modifications, and other capital improvements should be allowable within the reimbursement and the regulatory process, including the certificate of need process.

**SB 410, An Act Concerning Administrative Hearings Conducted by the Department of Social Services**

LeadingAge Connecticut objects to Section 3 of this bill which proposes changes to 17b-238 governing provider appeals (lines 215-216). The current law permits appeals of "any decision by the Commissioners." The proposed language is more limiting, authorizing only appeals of "a *payment rate* issued by the Commissioner."

There are many changes underway regarding the method that DSS is and will be paying providers. These new reimbursement systems may include acuity ratings, performance standards and other means of calculating reimbursement values. Our concern is that limiting the language in this statute to just the "payment rate" issued will take away the opportunity for a class of provider to challenge decisions regarding new reimbursement systems and/or methodologies as well as an individual provider's right to challenge decisions regarding outcome measures, supporting documentation or other claims issues not specific to the payment rate.

Nursing home providers are particularly concerned because they are currently carved out of the audit statute for appeals rights because their appeals rights are found in this specific rate statute that DSS is now proposing to limit.

T1  
-page 1, line 2



*Testimony before the Human Services Committee  
Roderick L. Bremby, Commissioner  
March 11, 2014*

Good morning, Senator Slossberg, Representative Abercrombie and distinguished members of the Human Services Committee. My name is Roderick Bremby and I am the Commissioner of the Department of Social Services. I am pleased to be before you today to testify on two bills raised on behalf of the Department. In addition, I offer written remarks on several other bills on today's agenda that impact the Department.

**Bills Raised on Behalf of DSS:**

**S.B. No. 406 (RAISED) AN ACT CONCERNING CERTIFICATES OF NEED FOR NURSING HOMES**

The proposed legislation deletes obsolete provisions, makes technical changes to the department's Certificate of Need (CON) statutes, and arranges the statutes in a more logical and cohesive format. The proposal also removes the requirement for a CON for transfers of ownership and acquisition of imaging equipment. These proposed legislative changes are requested, in part, to support the Money Follows the Person rebalancing initiative which provides nursing home residents the ability to receive services in a community setting.

The proposed section 17b-352 delineates all of the activities that require CON approval, maintains the moratorium on additional nursing home beds through June 30, 2016, provides correct statutory references, and removes outdated references to the Office of Health Care Access (OHCA). This bill also includes a provision to allow the Department, based on regional service needs, the flexibility to establish a nursing home bed pilot up to 35 beds, if necessary. The former subsections in section 17b-354 with respect to continuing care facilities have been deleted as continuing care facilities are addressed in Chapter 319hh. Some of the language removed from section 17b-354 is included in a new proposed section. Specifically, the moratorium language in section 17b-354 was moved to the proposed section 17b-352 as this language is incongruously placed where it is currently located. In addition, the department proposes to keep the language concerning the acceptance of nonresidents as nursing facility patients to continuing care facilities on a contractual basis and the same requirements. The department proposes to move this language to a new section in Chapter 319hh. Rather than addressing a "continuing care facility which guarantees life care for its residents," the proposed moratorium language references continuing care facilities that are registered as continuing care facilities pursuant to Chapter 319hh. This provision would be triggered only in the event of a significant shortage of nursing home beds in a specific locality within the state. The department has also proposed some technical changes in Chapter 319hh which are not substantive in nature.

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SB321  
SB326  
SB327  
SB329  
SB408  
HB544S  
HB5447  
SB407

The guidelines utilized in evaluating a CON proposal were moved from section 17b-355 to the proposed section 17b-353 and have been revised to remove irrelevant criteria. Requirements with respect to the application and hearing process have been consolidated into the proposed section 17b-354. The proposed section 17b-354 changes some of the requirements for a hearing and allows for expedited review in certain types of CON applications. The department also proposes an expedited review process for the closure or reduction of beds in a residential care home as this is not a medical facility, the average number of licensed beds is approximately 15 to 20 beds and, often, a resident is eligible for community-based programs that may be available in the area.

The department further proposes to remove the requirement for a public hearing when the closure is attributable to occupancy of less than 75% because once census has decreased below this level, it becomes difficult for the facility to remain financially viable and may lead to health and safety concerns impacting residents. Also, a rapid decline in census indicates there are beds available for the residents in the service area.

The proposed section 17b-354a establishes the time period for which a CON is valid, the process for requesting an extension of a CON, requirements for demonstrating that construction has begun and the department's ability to withdraw, revoke or rescind the CON.

The proposed changes to sections 17b-354b and 17b-354c are primarily technical in nature and remove obsolete provisions. Judicial enforcement language has been moved from section 17b-354a to section 17b-355.

Upon review of the raised bill, the department has identified a technical correction, which is appended to my written remarks for your consideration.

We ask for your support of this bill.

**S.B. No. 410 (RAISED) AN ACT CONCERNING ADMINISTRATIVE HEARINGS  
CONDUCTED BY THE DEPARTMENT OF SOCIAL SERVICES**

This bill updates DSS fair hearings procedures for clarity, efficiency, and consistency with federal law. Moreover, several of the changes being proposed will ease the burden on clients by allowing additional methods by which they may request hearings and greater flexibility in when they are required to attend.

Specifically the bill proposes the following:

Section 1 expands the ways that client hearings may be requested to include by mail, phone or other electronic means as contemplated under the Affordable Care Act (ACA). It specifies who may request a hearing on behalf of a client. Under current law, a request for a hearing must be mailed to the Commissioner within sixty days after the date of the decision being contested. In order to accommodate an anticipated change in our eligibility management system without affecting clients, this proposal provides that a hearing request must be received by the Department within sixty-five days of the date of the decision. This proposal increases the number

of days within which DSS must schedule a hearing from 30 to 45 and limits to three the number of continuances that may be granted. The proposal also provides that a client need not be present if represented by legal counsel and if not needed to testify. Lastly, the proposal allows testimony by phone in the hearing officer's discretion.

Section 2 makes clarifications that are not substantive changes to practice.

Section 3 specifies that the decisions that may be contested under the section are those that involve the issuance of a payment rate to a provider and deletes some obsolete language.

We ask for your support of this bill.

**Other Legislation Impacting the Department:**

**S.B. No. 321 (RAISED) AN ACT CONCERNING MEDICAID COST SAVINGS**

This bill would create a task force charged with reviewing best practices concerning Medicaid cost savings. The department has no objections to working with our partners to identify additional cost savings that may be achieved within the Medicaid program.

**S.B. No. 326 (RAISED) AN ACT CONCERNING FEDERAL MEDICAID WAIVERS**

This bill directs the Department to conduct a study to determine the need for additional Medicaid waivers or changes to the existing Medicaid waivers administered by DSS. The department is constantly striving to improve our programs that serve the residents of Connecticut and we therefore have no objections to this proposal.

**S.B. No. 327 (RAISED) AN ACT CONCERNING NURSING HOMES & S.B. No. 329 (RAISED) AN ACT CONCERNING LONG-TERM CARE**

The Department of Social Services commends the Committee for its attention to the need for strategic planning for Medicaid long-term care services. This is a critical need given the strong preferences of older adults and individuals with disabilities to live in home and community-based settings, the state's interest in controlling escalating costs, and support for town-level tailoring of strategies to meet local needs. DSS respectfully suggests to the Committee, however, that the studies that are being proposed by S.B. 327 and S.B. 329 are not needed. In keeping with the legislation enacted by the General Assembly, Governor Malloy, the Office of Policy and Management, and DSS released the Strategic Plan to Rebalance Long-Term Services and Supports, which already captures the data and planning strategies that are contemplated by these bills.

In support of the RFP for nursing facility diversification, the Department contracted with Mercer to make town-level projections of need for nursing home beds and associated workforce for all cities and towns in Connecticut. This was released in 2013, and Mercer is currently updating the projections.



**TESTIMONY OF  
CONNECTICUT HOSPITAL ASSOCIATION  
SUBMITTED TO THE  
HUMAN SERVICES COMMITTEE  
Tuesday, March 11, 2014**

**SB 410, An Act Concerning Administrative Hearings Conducted By The  
Department of Social Services**

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning SB 410, An Act Concerning Administrative Hearings Conducted By The Department Of Social Services. CHA opposes this bill.

Before outlining our concerns, it's important to detail the critical role hospitals play in the health and quality of life of our communities. All of our lives have, in some way, been touched by a hospital: through the birth of a child, a life saved by prompt action in an emergency room, or the compassionate end-of-life care for someone we love. Or perhaps our son, daughter, husband, wife, or friend works for, or is a volunteer at, a Connecticut hospital.

Hospitals treat everyone who comes through their doors 24 hours a day, regardless of ability to pay. In 2012, Connecticut hospitals provided nearly \$225 million in free services for those who could not afford to pay.

Connecticut hospitals are committed to initiatives that improve access to safe, equitable, high-quality care. They are ensuring that safety is reinforced as the most important focus—the foundation on which all hospital work is done. Connecticut hospitals launched the first statewide initiative in the country to become high reliability organizations, creating cultures with a relentless focus on safety and a goal to eliminate all preventable harm. This program is saving lives.

While CHA has no objections to the procedural changes set forth in Sections 1 and 2 of the bill, we have grave concerns about the potential adverse impact of Section 3 on hospitals.

Section 3 of the bill will unduly limit the right of a hospital to request an administrative hearing to only those decisions pertaining to a payment rate, rather than to any decision issued by the Commissioner, which has been a right available to hospitals for decades. CHA strenuously objects to this proposed change, since it will eliminate judicial review of decisions that are injurious to the hospital.

Limiting the scope of aggrievement in this manner will jeopardize the due process rights of hospitals. It will summarily eliminate a hospital's right to seek administrative redress for other legitimate items of aggrievement. For example, in the past year hospitals appealed a proposed change in payment methodology for ambulatory surgery services. The proposed change would have reduced funding by about \$60 million per year. Upon receipt of the appeals, the Department decided to withdraw the proposal. Hospitals also appealed the Department's failure to update and issue inpatient rates. The current inpatient rates expired on 9/30/12. On October 1, 2013, the hospitals filed appeals asking for the rates to be issued and updated for inflation as required. Hospitals also often have to appeal audit findings. Arbitrarily eliminating an administrative remedy that has been available for decades removes a significant backstop to decisions which otherwise would proceed regardless of the consequences. For these reasons, we ask you to oppose this bill.

Thank you for your consideration of our position. For additional information, contact CHA Government Relations at (203) 294-7310.