



Office of the Secretary of the State
165 Capitol Avenue
Hartford, CT 06106

MEMORANDUM OF OPINION

To: All Town Clerks and Registrars of Voters

From: Office of the Secretary of the State

Date: May 1, 2020

Re: Supervised Absentee Balloting Voting During a State of Health Emergency

We are writing this opinion to ensure that all eligible voters are able to participate in the upcoming August 11, 2020 Republican and Democratic Primaries. More specifically, we are clarifying the requirements for Supervised Absentee Balloting at a time when the Governor has declared a public health and civil preparedness emergency throughout the State of Connecticut.

This opinion is limited to absentee ballots issued for the August 11, 2020 Republican and Democratic Primaries and is issued pursuant to Connecticut General Statutes §9-3 which states, "(a)The Secretary of the State, by virtue of the office, shall be the Commissioner of Elections of the state, with such powers and duties relating to the conduct of elections as are prescribed by law and, unless otherwise provided by state statute, the secretary's regulations, declaratory rulings, instructions and opinions, if in written form, and any order issued under subsection (b) of this section, shall be presumed as correctly interpreting and effectuating the administration of elections and primaries under this title, except for chapters 155 to 158, inclusive, and shall be executed, carried out or implemented, as the case may be, provided nothing in this section shall be construed to alter the right of appeal provided under the provisions of chapter 54. Any such written instruction or opinion shall be labeled as an instruction or opinion issued pursuant to this section, as applicable, and any such instruction or opinion shall cite any authority that is discussed in such instruction or opinion...."

In the State of Connecticut, supervised absentee balloting is administered pursuant to Connecticut General Statutes §§ 9-159q and 9-159r which generally require that absentee balloting conducted at a convalescent or nursing home be supervised by the registrars of voters or their designees. Specifically, Connecticut General Statutes §9-159r states, "(a) Notwithstanding any provision of the general statutes

to the contrary, if twenty or more of the patients in any institution in the state are electors, absentee ballots voted by such electors shall be voted under the supervision of the registrars of voters or their designees of the town in which the institution is located, in accordance with the provisions of this section. As used in this section, the term "institution" shall be construed as defined in section 9-159q."

We are aware that the Governor has issued Executive Order No. 7A which allowed the Department of Public Health to issue visitor restrictions on certain institutions.

For the duration of the aforementioned public health and civil preparedness emergencies, or until such time as I repeal or modify this executive order, notwithstanding Section 19a-550(b)(12) of the Connecticut General Statutes or any other statute, regulation, local rule or ordinance or provision of law, the Commissioner of Public Health is authorized to issue any and all orders restricting entrance into nursing home facilities, residential care homes or chronic disease hospitals that she deems necessary to protect the health and welfare of patients, residents and staff.

Accordingly, the Department of Public Health has issued the following order:

I hereby order, effective immediately, that my March 13, 2020 Order imposing a complete ban on all visitors to such Facilities, be extended in its entirety with the same stated exceptions and restrictions, for the duration of the public health and civil preparedness emergency....

Therefore, absent a change in such Order, it is the opinion of this office that the current public health emergency of COVID-19 and Executive Order 7A and the corresponding Order by the Commissioner of the Department of Public Health eliminate the ability of the Registrars of Voters to conduct Supervised Balloting at nursing homes, residential care homes, and chronic disease hospitals.

Each Municipal Clerk shall provide a regular absentee ballot to each applicant of such facilities and allow residents of such facilities to vote using such regular absentee ballot and enlist any and all assistance of their choosing without the requirement of Supervised Absentee Ballot voting.

This opinion is also consistent with Centers for Disease Control and Prevention and Connecticut Department of Public Health guidelines regarding the prevention of the spread of COVID-19 within our communities which indicate that older adults are at higher risk of getting very sick from this illness as well as people who have serious chronic medical conditions. <https://www.cdc.gov/coronavirus/2019-nCoV/summary.html>

Given the risk to public health, the advice of medical experts, the Governor's Executive Order No. 7A, the Commissioner of the Department of Public Health's Order, and our ability to interpret and apply Title 9 of the General Statutes to the administration of elections and primaries in the State of Connecticut, our office is duty bound to eliminate the Supervised Balloting requirement for the August 11, 2020 primary.