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New Connecticut State Laws Affecting Hospitals and Health Care Providers

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The 2021 legislative session of the Connecticut General Assembly was a particularly busy one with dozens of important new statutes being enacted that will impact the health care industry. We've highlighted below some of the most significant legislation affecting **hospitals** and **individual health care providers** scheduled to take effect on **October 1, 2021**.¹

The purpose of this Alert is to summarize key areas of the law only; please refer to the full Public Acts for complete information.

ACTS AFFECTING HOSPITALS

Hospital Admissions: Upon admitting a patient to a hospital, hospital personnel must promptly ask if the patient desires for any family member, caregiver or support person to be notified of the admission, and if so, the hospital must make reasonable efforts to notify the individual as soon as practicable but not later than 24 hours after the patient's request. (Current law requires hospitals to make the same inquiry regarding notification of the patient's physician (CGS §19a-508a).) (**PA 21-26, §4**)

DPH Access to EMR: Not later than October 1, 2022 if technically feasible, each hospital is required to provide the Department of Public Health (DPH) with access, including remote access, to the entirety of each electronic medical record that concerns a reportable disease, emergency illness or certain health conditions that occur at the hospital. In addition, hospitals are required to provide DPH with access, including remote access, to the entirety of a patient's medical record, as DPH deems necessary: (1) to perform quality improvement audits and to ensure completeness of reporting and data accuracy of birth, fetal death and death occurrences; (2) to review case information related to a maternal death case under review by the Maternal Mortality Review Program;

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and (3) to perform case finding or other quality improvement audits to ensure completeness of reporting and data accuracy consistent with the purposes of the Connecticut Tumor Registry law. **(PA 21-121, §§78-81)**

Implicit Bias Training: On and after October 1, 2021, hospitals must include training in implicit bias as part of their regularly provided training to staff members who provide direct care to pregnant or postpartum women. **(PA 21-35, §13, eff. 6/14/21)**

Stroke Centers: Certified thrombectomy-capable stroke centers will be added to the annual list of stroke-designated hospitals that DPH posts on its website. (DPH already includes hospitals designated as a comprehensive stroke centers, primary stroke centers, and acute stroke-ready hospitals on its list of stroke-designated hospitals.) **(PA 21-121, § 68)**

New Potable Water Requirements: Hospitals and certain other health care institutions which are required to obtain potable water as a temporary measure to alleviate a water supply shortage must obtain such potable water from: (1) a licensed bulk water hauler; or (2) a bottler as defined in CGS §21a-150. **(PA 21-121, §89)**

ACTS AFFECTING INDIVIDUAL HEALTH CARE PROVIDERS

Essential Workers COVID-19 Assistance Program: A program is established to compensate essential employees who died or were unable to work as a result of contracting COVID-19, or due to symptoms that were later diagnosed as COVID-19, at any time between March 10, 2020 and July 20, 2021. (“Essential employees” are those employees who were employed in a category recommended by the CDC to receive a COVID vaccine in Phase 1a or 1b of the CDC’s vaccination program as of February 20, 2021 and includes certain persons serving in health care settings.) Assistance, within available funds and on a first-come, first-served basis, may be paid for portions of: (1) uncompensated leave; (2) documented out-of-pocket costs for medical services incurred directly as a result of the affected person contracting COVID-19; and (3) burial expenses. The law specifies time limits within which to file a claim. **(June SS, PA 21-2, §289)**

Failure to Maintain Credentials: The state Department of Consumer Protection may change the status of a controlled substance registration to “inactive” for any practitioner who fails to maintain a license, registration or approval of his/her license to practice his or her medical profession for a period longer than 90 days. The change in license status is not considered disciplinary and the registration will be reinstated without additional fee, if the practitioner restores his/her credential with DPH (or the applicable board or commission), and the reinstatement occurs prior to the expiration of the controlled substance registration. **(PA 21-37, §44)**

Credentialing Out-of-State Providers: A new law generally requires DPH to issue the appropriate license or other credential to a state resident or the spouse of an active duty U.S. service member permanently stationed in Connecticut if that person holds a valid credential in another jurisdiction and meets specified

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experience and background requirements (e.g., has no disciplinary history). The affected professions include (but are not limited to) physicians, physician assistants, physical therapists, occupational therapists, alcohol and drug counselors, nurses, psychologists, social workers, genetic counselors and dietitian-nutritionists. The law allows DPH to deny the credential if the commissioner finds it to be in the state's best interest. **(PA 21-152, §1)**

Physician Assistants: A new law expands the duties physician assistants may carry out by allowing them to sign or certify medical information or take other action in certain instances that currently require a physician or APRN's signature. **(PA 21-196)**

Behavior Analysts: Behavior analysts are mandated reporters of suspected abuse, neglect, exploitation or abandonment of elderly persons **(PA 21-121, §31)** and are included in the list of licensed health care professionals subject to the state's practitioner impairment statute (CGS §19a-12e). **(PA 21-121, §28)**

MEDICAL CONDITIONS TREATED WITH PALLIATIVE MARIJUANA: The Department of Consumer Protection will no longer be required to publish regulations to add new medical conditions that may be treated with palliative marijuana. Instead, the new conditions must be posted online. **(June SS, PA 21-1, §66)**

ACTS AFFECTING ELECTRONIC DATA

New Requirements regarding Data Breaches: The state's data breach notification law (CGS §36a-701b) has been amended. For example, the new law covers additional types of information and expands the types of persons/entities to which the law applies. Health care providers should note that the new law specifies that persons subject to and in compliance with HIPAA and HITECH are deemed to be in compliance with the requirements of the new law, provided that any person required to notify Connecticut residents under HITECH also notify the Attorney General in the same timeframe as the new data breach notification law requires (generally 60 days after discovery of the breach). Additionally, appropriate identity theft prevention and mitigation services must be provided for up to 24 months following certain breaches. As under current law, failure to comply with the statute is an unfair trade practice. **(PA 21-59)**

New Incentives for Taking Cybersecurity Measures: A new law provides relief to entities that access, maintain, communicate or process "personal information" or "restricted information." The law prohibits a Superior Court from assessing punitive damages in a tort action alleging that the failure to implement reasonable cybersecurity controls resulted in a data breach, if the entity complies with a written cybersecurity program that meets certain requirements and conforms to an "industry-recognized cybersecurity framework." Of note, an "industry-recognized cybersecurity framework" includes the most current version of the security requirements of HIPAA. **(PA 21-119)**

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ACTS AFFECTING HEALTH CARE INSURANCE, MEDICAID AND THE UNINSURED

Contracts between Health Carriers and Health Care Providers: New provisions must be added to contracts between health carriers and providers entered into, renewed or amended on or after July 1, 2022, including: (i) a 90-day advance written notice requirement of changes to the provisions and other documents incorporated by reference in the contract and of changes to the provider manuals and policies incorporated by reference that will result in a material change to the contract or the procedures that the participating provider must follow pursuant to such contract; and (ii) a provision giving the participating provider a right to appeal these changes. **(June SS, PA 21-2, §83)**

Unfair Insurance Practices: A new law clarifies that it is an unfair insurance practice for a health insurance carrier providing certain types of coverage (including basic hospital expense coverage major medical expense coverage) to refuse to insure, or otherwise discriminate against, an individual because the individual is a victim of domestic violence, as defined by Connecticut law. (Prior law used the undefined term “family violence”). **(PA 21-93, §1)** It is also an unfair insurance practice for an insurer to: (1) request or use information obtained from an entity providing direct-to-consumer genetic testing without the informed written consent of the subject in connection with life, credit life, disability, long-term care, accidental injury, specified disease, hospital indemnity or credit accident insurance; or (2) impose conditions on insuring an individual based on: (A) a requirement that the individual undergo genetic testing; or (B) the results of any genetic testing of an individual’s family, unless the results are contained in the individual's medical record. **(PA 21-137, §§1-3)**

Changes related to External Reviews: A new law eliminates the \$25 filing fee for external reviews of adverse benefit determinations and, if an external review is accepted, health carriers have new obligations that are currently carried out by the Connecticut Insurance Department. **(PA 21-157, §5)**

Medicaid Coverage of Acupuncture and Chiropractic Services: Not later than October 1, 2021, the Commissioner of Social Services must amend the Medicaid state plan to include services provided by licensed acupuncturists and chiropractors as optional services under the Medicaid program. **(June SS, PA 21-2, §331, eff. 6/23/21)**

Medicaid Coverage for Community Violence Prevention Services: Under a new law, Department of Social Services (DDS) must amend the state Medicaid plan by July 1, 2022 to make available, to the extent permitted by federal law, community violence prevention services for Medicaid beneficiaries who are victims of community violence and who meet certain requirements. The new law also establishes training requirements for individuals seeking certification as a “certified violence prevention professional.” **(PA 21-36)**

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Medical Assistance for the Uninsured: Not later than April 1, 2022, the DSS must amend the state plan for the Children's Health Insurance Program (CHIP) to provide medical assistance for prenatal care through the Medicaid unborn child option, which allows an unborn child to be considered a low-income child eligible for coverage for prenatal care services under certain circumstances. In addition, within available appropriations and to the extent the covered person meets specified income requirements, DSS must provide enhanced state-funded medical assistance: (1) on and after January 1, 2023, to any child 8 or younger, regardless of immigration status, who does not otherwise qualify for Medicaid, CHIP or employer-sponsored insurance; and (2) on or after April 1, 2023, for postpartum care for 12 months after birth to a woman who does not qualify for Medicaid due to immigration status. **(PA 21-176, as amended by June SS, PA 21-2, Section 344)**

If you have any questions or would like more information about these new laws, please contact a Pullman & Comley Health Care attorney.

¹ Unless otherwise indicated, the effective date of each Public Act is October 1, 2021.

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