

# 2005 CONNECTICUT HEALTH CARE LEGISLATION

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The following bulletin summarizes the 2005 Connecticut healthcare legislation that we think may be of interest to you. If you have questions or would like further information regarding any of the topics discussed in this bulletin, please feel free to contact any member of the Health Law Practice Group: [Alex Lloyd](#) at (860) 251-5102, [John H. Lawrence, Jr.](#) at (860) 251-5139, [Joan Feldman](#) at (860) 251-5104, [Jennifer D. Janelle](#) at (860) 251-5912 and [Jeri Reutenauer Barney](#) at (860) 251-5108. This summary is presented in chronological order by Public Act number.

**Public Act 05-3: An Act Clarifying Licensure Requirements for Outpatient Surgical Facilities.**

**Summary and Impact:** This Act allows an outpatient surgical facility to operate without a Department of Public Health (“DPH”) license until March 30, 2007 if the facility can show either of the following: (1) it was operating before July 1, 2003; or (2) it received an Office of Health Care Access determination, on or before July 1, 2003, that a certificate of need was not required. Prior to this Act, the law required the facility to meet both of the conditions. The facility must be licensed by March 30, 2007 in order to continue operating after that date. Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00003-R00SB-00933-PA.htm> **Effective Date:** April 1, 2005.

**Public Act 05-8: An Act Concerning Medical Testing By Respiratory Therapists.**

**Summary and Impact:** This Act allows licensed respiratory care practitioners to perform purified protein derivative tests to identify tuberculosis exposure. Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00008-R00HB-06586-PA.htm> **Effective Date:** October 1, 2005.

**Public Act No. 05-64: An Act Concerning Nursing Oversight of Patients Receiving Home Health Services.**

**Summary and Impact:** This Act requires a registered nurse to visit and assess each patient receiving homemaker-home health aide services as often as necessary based on the patient’s condition, but not less than once every sixty (60) days (consistent with Medicare conditions of participation for home health agencies). The Act further requires that the R.N.’s assessment be completed while the aide is providing services in the patient’s home. Prior to the Act, state regulations required an assessment at least every 4 weeks. See Conn. Agencies Regs. § 19-13-D69(a)(3)(J). Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00064-R00HB-06897-PA.htm> **Effective Date:** June 2, 2005.

**Public Act No. 05-67: An Act Requiring Notification of Criminal Charges Against Connecticut Physicians.**

**Summary and Impact:** This Act requires the Office of the Chief State’s Attorney to immediately notify DPH in writing when criminal charges are brought against a licensed physician for any of the following: (1) reckless endangerment within the physician’s scope of practice, (2) manslaughter, or (3) murder. After notification, DPH can begin an investigation of the physician, while the criminal charges are pending, to determine if any disciplinary action should be taken, including possible license suspension. Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00067-R00SB-00111-PA.htm> **Effective Date:** October 1, 2005.

**Public Act 05-73: An Act Concerning the Practice of Pharmacy.**

**Summary and Impact:** This Act prohibits practitioners from prescribing anabolic steroids for the sole purpose of enhancing a patient’s athletic ability or performance. The Act also prohibits prescriptions for controlled substances if they are based solely on the results of an electronic questionnaire, without having performed a physical examination. It defines “electronic questionnaire” as a form in an electronic format that may ask the consumer or patient for personal, financial, or medical information.

Connecticut law permits physicians and hospital pharmacists to enter collaborative agreements to manage the drug therapy of individuals receiving inpatient hospital services. See Conn. Gen. Stat. § 20-631. The agreements must be based on patient-specific written protocols and approved by the hospital. The Act establishes penalties for violating Connecticut laws concerning collaborative drug therapy management agreements and prescription error reporting by pharmacists. Such penalties include a fine of up to \$ 5,000, imprisonment for up to five (5) years, or both. Previously, no penalties existed for violations of these laws. Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00073-R00SB-00945-PA.htm> **Effective Date:** May 31, 2005.

**Public Act 05-75: An Act Concerning Certificate of Need and Public Hearing Requests.**

**Summary and Impact:** This Act redefines “affiliate” more broadly for purposes of CON review to include not just licensed providers of direct patient care services but also any unlicensed corporate holding company, affiliate, or subsidiary of that provider. Specifically, it defines affiliate as “a person, entity, or organization

controlling, controlled by, or under common control with another person, entity or organization.” The Act also establishes that a person seeking a public hearing on a CON application must make a request to OHCA within 21 days after OHCA deems the CON application complete. Prior to the Act, the statutes and regulations contained no cutoff date or deadline by which a person must file a request with OHCA for a public hearing.

Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00075-R00SB-01143-PA.htm> **Effective Date:** October 1, 2005.

**Public Act 05-93: An Act Concerning the Capital Expenditure Threshold for the Regulation of Equipment Acquisitions.**

**Summary and Impact:** This Act amends the CON process by eliminating the capital expenditure threshold of \$ 400,000 for CON review of proposals involving the purchase, lease, or donation acceptance of various types of scanning equipment and linear accelerators. The Act specifies that equipment acquisitions involving CT scanners, PET scanners, PET/CT scanners, MRI scanners, cineangiography equipment, linear accelerators, or similar equipment with technology that is new or being introduced into the state will be subject to CON review, regardless of the proposed capital expenditure or capital cost associated with the CON proposal. The Act also provides exemptions and waivers from CON for the specific type of equipment listed above under the following conditions: (1) the provider, facility, or institution demonstrates to OHCA with satisfactory evidence that the equipment was purchased, leased or accepted as a donation for under \$400,000 on or before July 1, 2005, or (2) the provider, facility, or institution obtained from OHCA, on or before July 1, 2005, a CON or a determination that a CON was not required. Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00093-R00SB-01207-PA.htm> **Effective Date:** July 1, 2005.

**P.A. 05-128: An Act Concerning Hospital Patients Rights.**

**Summary and Impact:** This Act requires hospitals to notify each patient, in writing, of his or her rights under the Medicare conditions of participation for hospitals. The notice must be provided upon admission, must specify the patients’ rights, and must provide the means for filing a complaint, including contact information for DPH. Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00128-R00SB-01095-PA.htm> **Effective Date:** October 1, 2005.

**Public Act No. 05-151: An Act Concerning Revisions to the Office of Health Care Access Statutes.**

**Summary and Impact:** This Act requires entities that are exempt from the CON process to apply every two (2) years, rather than every year, to renew their status. This Act also clarifies that the authority to approve an operating budget rests with the institution, not OHCA. The Act further specifies that hospitals must file their current pricemaster, including its detailed schedule of charges. The Act eliminates a requirement for OHCA annually to review and report on the financial implications that graduate medical education has for Connecticut hospitals and evaluate its effects on health care access and the health care workforce. Finally, the Act repeals a requirement for hospitals to submit proposed budgets to OHCA for its review and approval, as well as an obsolete billing provision. Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00151-R00SB-01145-PA.htm> **Effective Date:** October 1, 2005, except for the provisions on hospitals submitting financial data and price lists and repealing obsolete statutes, which are effective July 1, 2005.

**P.A. 05-167: An Act Concerning the Improvement of Cardiac Care.**

**Summary and Impact:** This Act requires the Quality of Care Advisory Committee, which advises DPH on quality of care issues involving health care facilities to examine and evaluate possible ways that an existing data collection system can be used to measure cardiac outcomes and the potential for statewide use of a cardiac outcome data collection system. Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00167-R00HB-06304-PA.htm> **Effective Date:** July 1, 2005.

**P.A. 05-168: An Act Concerning Electronic Prescriptions and Electronic Medical Records.**

**Summary and Impact:** This Act allows each licensed prescribing practitioner to use an electronic prescribing system. The Department of Consumer Protection may, within available appropriations, advise and assist them with compliance with this voluntary effort.

The Act allows licensed health care institutions to create, maintain, or use medical records or medical record systems in electronic format, paper, or both if the system can store medical records and patient health care information in a reproducible and secure manner, and requires OHCA, using its discretion, to exempt from CON review any health care facility or institution proposing to purchase or operate an electronic medical record system on or after October 1, 2005.

Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00168-R00HB-06557-PA.htm> **Effective Date:** October 1, 2005.

**Public Act 05-187: An Act Concerning Fire Sprinklers in Nursing Homes. Summary and Impact:** This Act extends the deadline from July 1, 2005 to July 31, 2006 for each chronic and convalescent nursing home and rest home with licensed nursing supervision to install automatic fire extinguishing systems approved by the state fire marshal. The Act further specifies that the system should be complete, and requires it to be installed throughout the nursing home instead of on each floor. The Act also requires CHEFA to create and administer a loan program for nursing homes to use for the cost of installing automatic fire extinguishing system.

Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00187-R00SB-01088-PA.htm>

**Effective Date:** Upon passage (June 30, 2005), except for the CHEFA requirements, which take effect July 1, 2005.

**Public Act 05-216: An Act Concerning Services That May Be Provided by Professional Corporations and Limited Liability Companies. Summary and Impact:** This Act authorizes physicians and chiropractors to form a professional service corporation or limited liability company to offer the services of a physician and chiropractor.

Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00216-R00HB-06963-PA.htm>.

**Effective Date:** October 1, 2005.

**P.A. 05-219: An Act Expanding the Prescriptive Authority of Physician Assistants.**

**Summary and Impact:** This Act expands the prescriptive authority of physician assistants ("PA") by allowing them to prescribe and renew schedules II through V controlled substances in all settings; provided that the supervising physician documents his or her approval of the order for a schedule II or III controlled substance in the patient's medical record within one calendar day, rather than cosigning the order within 24 hours. Under current law, a PA may (1) prescribe and administer schedules IV and V controlled substances in all settings; (2) renew prescriptions for schedules II and III controlled substances in outpatient settings; and (3) prescribe and administer schedules II and III controlled substances to an inpatient in a short-term hospital, chronic disease hospital, emergency room satellite of a general hospital, or after evaluation by a physician, in a chronic and convalescent nursing home.

Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00219-R00HB-05814-PA.htm>

**Effective Date:** October 1, 2005.

**Public Act 05-259: An Act Concerning Public Health Preparedness and Emergency Medical Service Personnel. Summary and Impact:** This Act places emergency medical technicians and paramedics who are part of the Connecticut Disaster Medical Assistance Team or the Medical Reserve Corps under the auspices of DPH, or the Connecticut Urban Search and Rescue Team under the Department of Public Safety, under the active surveillance, medical control and direction of the chief medical officer of such team or corps while involved in officially authorized civil preparedness duty or training.

The Act allows a PA to work under the supervision of physician, who is not registered with the DPH as a supervising physician, if the PA is part of the Connecticut Disaster Medical Assistance Team, Medical Reserve Corps, or Connecticut Urban Search and Rescue Team and engaged in officially authorized civil preparedness duty or training conducted by such teams or corps. Prior to this Act, a PA was required to work under the supervision of a licensed physician registered with the DPH as a supervising physician.

The Act specifies that the scope of practice of certified or licensed emergency medical technician (EMT)-basic, EMT-intermediate, and EMT-paramedic can include treatment modalities not specified in state regulations if they are approved by the Office of Emergency Medical Services ("OEMS") Medical Advisory Committee and the Commissioner of DPH and administered at the medical control and direction of a sponsor hospital. The Act defines a "sponsor hospital" as one agreeing to maintain staff to provide medical control, supervision, and direction to an EMS organization and its personnel and approved to do so by OEMS.

Under the Act, the State of Connecticut must hold harmless and indemnify any sponsor hospital, its medical director, or designated staff certified by DPH to oversee the training, distribution, or quality assurance of nerve agent antidote kits, unless such sponsor hospital, medical director or designated staff was wanton, reckless or malicious in discharging his, her or its duties in providing the training, distribution, or quality assurance of nerve antidote kits.

Finally, the Act extends immunity from liability to any person operating an automatic external defibrillator who voluntarily and gratuitously and not in the ordinary course of his or her employment or practice, gives emergency or medical assistance to a person in need (except for acts or omissions constituting gross, willful or wanton negligence).

Existing law provides such liability protection only to a person trained in the use of an automatic external defibrillator according to standards of the American Heart Association or American Red Cross. The Act further specifies that it should not be construed as exempting paid or volunteer firefighters, police officers, or EMS personnel from completing training in cardiopulmonary resuscitation or in the use of an automatic external defibrillator according to the standards of the American Red Cross or American Heart Association.

Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00259-R00SB-01208-PA.htm>

**Public Act 05-272: An Act Concerning Revisions to Department of Public Health Statutes.**

**Summary and Impact:** This Act makes a number of substantive and technical changes related to various health care practitioners, institutions, and activities regulated by DPH, DSS, and DCP. Some examples of such changes include the following:

1. Addresses protection and access to medical records in the possession of health care institutions ceasing operations (Section 5, effective October 1, 2005);
2. Allows medical school graduates to participate in graduate medical education as an intern, resident, or medical officer candidate outside of a hospital in "hospital-based programs" and allows medical students to participate in clinical clerkships outside of a hospital in "hospital-based programs" (Section 7, effective October 1, 2005);

3. Changes the procedure for amending a birth certificate in the case of a gestational agreement by requiring the hospital to record the name of the birth mother on the birth record regardless of whether a court order has been issued regarding the name to be listed (Section 1, effective October 1, 2005);

4. Requires the protocol on collection of evidence in sexual assault investigations to include nonoccupational post-exposure prophylaxis for human immunodeficiency virus (nPEP), as recommended by the National Centers for Disease Control (Section 16, effective July 1, 2005);

5. Requires DPH to immediately amend the rate schedule of ambulance services when its maximum allowable rates fall below its Medicare allowable rates so that the rates are at or above the Medicare allowable rates (Section 17, effective July 13, 2005);

6. Requires that protocols between nurse midwives and OB/GYNs be written and made available to, rather than filed with, DPH upon its request (Section 19, effective July 13, 2005); and

7. Requires the Quality of Care Advisory Committee of the DPH to review best practices with regard to when breast cancer screening should be conducted (Section 30, effective October 1, 2005).

Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00272-R00HB-06713-PA.htm>

**Public Act No. 05-275: An Act Concerning Medical Malpractice. (Includes DPH physician disciplinary guidelines, physician profiles, CME for physicians, and surgery protocols)**

**Summary and Impact:** This Act makes numerous changes in the laws dealing with civil litigation, primarily related to medical malpractice; medical malpractice insurance and regulation; and the regulation, oversight and disciplining of doctors. Some examples of such changes include the following:

1. The Act requires DPH to adopt guidelines, not regulations, for investigating complaints against, and disciplining, physicians. Such guidelines must include, but need not be limited to, the following: (1) identification of each type of violation; (2) a range of penalties for each type of violation; (3) additional optional conditions that may be imposed by the Connecticut Medical Examining Board (the "Board") for each violation; (4) identification of factors the Board shall consider in determining what penalty should apply; (5) conditions, such as mitigating factors or other facts, that may be considered in allowing deviations from the guidelines; and (6) a provision if a deviation from the guidelines occurs, the reason for the deviation shall be identified. The Act also requires the DPH to adopt guidelines, with the advice and assistance of the Board, regarding the following: (1) screening complaints received to determine which complaints will be investigated; (2) providing a basis for prioritizing the order in which complaints will be investigated; (3) developing a system for conducting investigations to ensure prompt action when it appears necessary; (4) determining when an investigation should be broadened beyond the scope of the initial complaint to include, but not be limited to, sampling patient records to identify patterns of care, reviewing office practices and procedures, and reviewing performance and discharge data from hospitals; and (5) protecting and ensuring the confidentiality of patient and provider identifiable information when an investigation is broadened beyond the scope of the initial complaint.

2. The Act amends the physician profile law to require information about adverse licensure actions in other states, the name of the physician's professional liability insurance care, and whether the physician is actively involved in patient care, and requires physicians to report any changes or updates in mandatory reporting requirements.

3. The Act requires that physicians, as a condition of license renewal for registration periods beginning on and after October 1, 2007, must earn a minimum of fifty (50) contact hours of continuing medical education within the preceding twenty-four-month period. Such continuing medical education must be in an area of the physician's practice, reflect the professional needs of the licensee in order to meet the health care needs of the public, and include at least one contact hour of training or education in infectious diseases, including, but not limited to, acquired immune deficiency syndrome and human immunodeficiency virus, risk management, sexual assault and domestic violence. The Act also provides exemptions from the requirements under certain conditions.

4. The Act requires each hospital and outpatient surgical facility to develop protocols for accurate identification procedures that must be used prior to surgery. Such protocols must include, but need not be limited to, the following: (1) procedures to be followed to identify the (A) patient, (B) surgical procedure to be performed, and (C) body part on which the surgical procedure is to be performed, and (2) alternative identification procedures in urgent or emergency circumstances or where the patient is nonspeaking, comatose or incompetent or is a child. After January 1, 2006, no hospital or outpatient surgical facility may anesthetize a patient or perform surgery unless the protocols have been followed. Each hospital and outpatient surgical facility must make a copy of the protocols available to the Commissioner of DPH upon request.

Full text at <http://www.cga.ct.gov/2005/act/Pa/2005PA-00275-R00SB-01052-PA.htm>

**Effective Date:** July 13, 2005, except for DPH disciplinary guidelines, continuing education, and the physician profile, which take effect October 1, 2005



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