

2023 CONNECTICUT HEALTHCARE LEGISLATION SUMMARY

A Shipman & Goodwin LLP™ Legislation Summary

In its 2023 regular session, the General Assembly made a number of changes to the statutes that affect healthcare providers in Connecticut. This summary provides a brief overview of some of the more significant changes. Links to the new legislation are provided in the electronic version of this publication.

PUBLIC ACT NO. 23-122

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING CHANGE IN OWNERSHIP OF HEALTH CARE FACILITIES (HB 6731)

Section 1: Effective 10/01/2023 (DPH)

PA 23-122 (the "Act") repeals section 19a-493 of the Connecticut General Statutes ("General Statutes") and broadens the conditions requiring prior approval from the Connecticut Department of Public Health ("DPH") for changes in ownership of licensed health care facilities or institutions ("facilities"). It achieves this by removing existing exemptions in the current law for 1) changes in ownership or beneficial ownership of less than 10% of the stock of a corporation that owns or operates the facility, or 2) specific transfers to relatives. These provisions are applicable to all DPH-licensed institutions, including hospitals, behavioral health facilities, nursing homes, outpatient surgical facilities, and home health care agencies. Under the Act, there is also a requirement for prospective new owners to submit various documents and additional information to DPH as part of the review process for the ownership transfer. These documents include a copy of the sale or transfer agreement, organizational charts (if applicable), and information regarding any previous penalties or sanctions in any state. The Act also provides DPH with the discretion to waive specific requirements for certain applicants. It also introduces an exemption from the prior approval requirements for specific transfers involving outpatient surgical facilities or nonprofit hospitals.

Section 2: Effective 10/01/2023 (DPH)

Section 2 of the Act repeals subsection (a) of section 19a-491a of the General Statutes and requires that a person planning to establish, conduct, operate or maintain a nursing home must provide DPH with specific information. The information must include: 1) the name and business address of the owner, and whether the owner is an individual, partnership, or other legal entity; 2) a description of the owner's relevant business experience, and the nursing home administrator's licensure and relevant experience; 3) affidavits signed by all relevant parties for specific instances; 4) a statement on whether the owner is affiliated with a religious, charitable or other nonprofit organization; 5) the location and description of other health care facilities of the owner; and 6) statements of anticipated source and application of funds to purchase or construct, and operate the nursing home. Notably, the Act also lowers the ownership interest threshold from 10% to 5% and requires nursing home licensure applicants to inform DPH of anyone with a 5% or greater ownership interest in the owner.

Section 3: Effective 10/01/2023 (DPH)

Section 3 of the Act repeals subsection (a) of section 19a-528a of the General Statutes and mandates that to apply for licensure to acquire a nursing home, a potential nursing home licensee or owner must submit a change in ownership application in writing to DPH. Under the Act, DPH must include on the application a statement notifying the potential nursing home licensee and owner that they may be held civilly or criminally liable, or subject to administrative sanctions, for abuse or neglect of a resident by a nursing home employee. This notice provision is lowered from 10% to 5% ownership interest in the nursing home or entity that owns it under the new Act.

PUBLIC ACT NO. 23-89

AN ACT CONCERNING RISK PROTECTION ORDERS OR WARRANTS AND DISQUALIFIERS FOR FIREARM PERMITS AND ELIGIBILITY CERTIFICATES BASED ON TEMPORARY COMMITMENT UNDER A PHYSICIAN'S EMERGENCY CERTIFICATION (HB 6877)

Section 6: Effective 10/01/2023 (DESPP)

PA 23-89 (the "Act") repeals subsection (b) of section 29-37p of the General Statutes. The Act prohibits people from obtaining a handgun carry permit, handgun eligibility certificate, or long gun eligibility certificate if, on or after October 1, 2023, they were committed to a psychiatric hospital under a physician's emergency certificate ("PEC") within the preceding six months for care and treatment of a psychiatric disability and not solely for treatment of alcohol or drug dependency.

Sections 10 and 11: Effective 10/01/2023 (DESPP)

The Act also repeals subsection (b) of section 17a-500 and section 17a-506a of the General Statutes and makes changes to the responsibilities of psychiatric hospitals, Department of Emergency Services and Public Protection ("DESPP"), and Department of Mental Health and Addiction Services ("DMHAS") relating to psychiatric commitments under PECs. Psychiatric hospital must notify DMHAS about commitments, DMHAS must maintain records on these commitments and give it to DESPP so that it may carry out its responsibilities relevant to gun credentialing, DESPP must verify from DMHAS that all persons applying for gun credentials were not subject to a commitment, and if DESPP determines that an applicant was subject to a commitment, DESPP must report the status of the person's application to DMHAS.

PUBLIC ACT NO. 23-39

AN ACT REQUIRING DISCHARGE STANDARDS REGARDING FOLLOW-UP APPOINTMENTS AND PRESCRIPTION MEDICATIONS FOR PATIENTS BEING DISCHARGED FROM A HOSPITAL OR NURSING HOME FACILITY (SB 956)

Section 1: Effective 10/01/2023 (DPH)

Section 1 of PA 23-39 (the "Act") repeals Section 19a-504c of the General Statutes and requires the Connecticut

Department of Public Health (“DPH”) regulations to set minimum standards for hospital and nursing home discharge planning services. These regulations must require written discharge plans made in consultation with the patient, or the patient’s family or representative, and the patient’s physician, and include 1) the date and location of each follow-up medical appointment scheduled before the patients discharge and 2) a list of all medications the patient is currently taking and will take after discharge. Regulations must also require a procedure to give the patient notice of their discharge and copy of their discharge plan before discharge. Whenever an inpatient is discharged to the patient’s home, the facility must allow the patient to designate a caregiver at, or before, the time the discharge plan is given to the patient. The facility must also send electronically all prescriptions ordered for the patient by the facility employees to the patients pharmacy prior to discharge.

PUBLIC ACT NO. 23-94

AN ACT CONCERNING MEDICAL ASSISTANCE FOR SURGERY AND MEDICAL SERVICES RELATED TO TREATMENT OF OBESITY (SB 977)

Section 1: Effective 07/01/2023 (DSS)

PA 23-94 (the “Act”) requires the Connecticut Department of Social Services (“DSS”) to provide medical assistance for bariatric surgery and related medical services for Medicaid and Husky B beneficiaries with severe obesity, if the beneficiaries meet the conditions set by the Centers for Medicare and Medicaid Services for such surgery and medical services. Under the Act, medical services include FDA-approved prescription drugs to treat obesity and nutritional counseling from a registered dietitian-nutritionist certified pursuant to section 20-206n of the Connecticut General Statutes. The Act allows the DSS Commissioner to amend the Medicaid state plan and the Children’s Health Insurance Program if needed to implement the Act’s provisions.

PUBLIC ACT NO. 23-48

AN ACT CONCERNING NOTICE OF A PROPOSED INVOLUNTARY TRANSFER OR DISCHARGE OF A NURSING FACILITY RESIDENT, FAMILY COUNCILS IN MANAGED RESIDENTIAL COMMUNITIES, COORDINATION OF DEMENTIA SERVICES, NURSING HOME TRANSPARENCY AND HOMEMAKER-COMPANION AGENCIES (HB 5781)

Sections 1 - 3: Effective from passage 06/13/23 (DSS)

Sections 1-3 of PA 23-48 (the “Act”) require nursing homes to notify the State Long-Term Care Ombudsman about a resident’s involuntary transfer or discharge. The nursing home must also confirm to the resident being transferred or discharged and his or her representative that the Ombudsman was notified. Failure to provide notice to the Ombudsman will invalidate the involuntary transfer or discharge of the resident. Under the Act, the State Ombudsman and representatives of the office must have access to long-term facilities and residents, and appropriate access to review the medical and social records of the resident, including discharge plans.

Section 7: Effective 07/01/23 (DSS)

Section 7 of the Act requires nursing homes to submit annual narrative summaries of cost expenditures to the Department of Social Services (“DSS”), along with the cost reports required under current law. The summaries should include the profit and loss statements for the preceding three cost report years, total revenue, total expenditures, total assets, total liabilities, short-term debt, long-term debt, and cash flow from investing, operating, and financing activities. DSS must post these cost reports and summaries for each nursing home on the agency’s website annually.

Section 8: Effective 07/01/23 (DPH)

Section 8 of the Act also repeals Section 19a-491a of the General Statutes and expands the information that nursing home licensure applicants must give to the Connecticut Department of Public Health (“DPH”) to include, notably, information on any private equity company or real estate investment trust that owns any portion of the business, and the owner’s audited and certified financial statements. If a private equity company or real estate investment trust owns any part of the nursing home, then DPH must receive the same information the federal government requires when providers apply for and maintain enrollment in Medicare. The audited and certified financial statements must include a balance sheet from the end of the most recent fiscal year and income statements from the most recent fiscal year.

Section 9: Effective 07/01/23 (DSS)

Section 9 of the Act repeals subsection (a) of section 17b-340 of the General Statutes and expands on the reporting requirements for chronic and convalescent nursing homes that receives Medicaid funding. Each chronic convalescent nursing home that receive state funding must include in an annual report a profit and loss statement from each related party that receives from such chronic and convalescent nursing home, thirty thousand dollars or more per year for goods, fees, and services.

Section 11: Effective 06/13/23 (OPM)

Section 11 of the Act requires the Office of Policy and Management (“OPM”) secretary to develop a plan and proposed timeline to transfer homemaker-companion agency registration and oversight responsibilities from the Connecticut Department of Consumer Protection (“DCP”) to DPH. In part, the plan must include instruction and training benchmarks for caring for clients with Alzheimer’s disease, dementia, and related conditions.

PUBLIC ACT NO. 23-171

AN ACT PROTECTING PATIENTS AND PROHIBITING UNNECESSARY HEALTH CARE COSTS (HB 6669)

Section 9: Effective 07/01/23 (OHS)

Section 9 of PA 23-171 (the “Act”) prohibits hospitals or health systems from charging facility fees for certain on-campus outpatient procedures that are not provided in the emergency department and repeals a current provision that currently makes a violation of facility fee limits an unfair trade practice; instead, the Act allows for the Connecticut Office of Health Strategy (“OHS”) to impose civil penalties. The Act also alters existing facility fee-related reporting requirements, including changing the deadline for the next report to 10/01/2023, and expanding the scope of the reporting to include facility fees charged on the hospital campus. Under the Act, hospitals and health systems may not collect facility fees for

outpatient health care services that use a current procedural terminology evaluation and management code (“CPT E/M”) or assessment and management (“CPT A/M”) code and are provided on the hospital campus, with certain exceptions. However, a hospital or health system may continue to collect facility fees from a health insurer if the commercial contract allows for it, and if the insurance contracts are in effect on July 1, 2024.

Section 10-14: Effective 10/01/23 (OHS)

Sections 10-14 of the Act make several changes to existing certificate of need (“CON”) law. Typically, CONs are needed when certain health care facilities establish a new facility or provide new services, change ownership, purchase, or acquire certain equipment, or terminate certain services. The Act allows OHS to issue notices for suspected violations and issue cease and desist orders as needed, expands CON exemptions for specific replacement equipment, requires CON applicants to provide the public with further notice about CON applications and public hearings, allows OHS to retain independent expert consultants when needed for CON review, and subjects a person or facility to civil penalties for failing to comply with a settlement agreement. If any person, health care facility, or institution is unsure whether a CON is needed, they must request a determination from the Health Systems Planning Unit; the Act establishes a 30-day deadline for the unit to issue this determination after receiving the request. Before filing a CON application, an applicant must give public notice and must publish the notice for at least three consecutive days. The Act states that the final date of publishing this notice must be no later than 20 days before the application is filed. The Health Systems Planning Unit must notify the applicant when it considers the application to be complete and sets a five-day deadline for the unit to do so.

Section 22: Effective from passage (DPH)

Under Section 22 of the Act, health carriers and all providers participating in their respective health carrier network must give a 90-day written notice of intent to terminate a contract before the proposed termination date, or before the end of the contract period. The Act also requires the health carrier to make a good faith effort to notify all patients that are regular patients of the participating providers. If a contract between a health carrier and participating hospital or its parent corporation is terminated or not renewed, the carrier and hospital must continue to uphold the contract’s terms for an additional 60 days. If a contract is entered into, amended, or continued on or after July 1, 2023, the Act applies this requirement to hospital intermediaries as well.

PUBLIC ACT NO. 23-168

AN ACT CONCERNING MANDATED REPORTERS (HB 6775)

Section 1: Effective 07/01/2023 (DSS)

PA 23-168 (the “Act”) repeals Subsection (a) of Section 17b-451 of the General Statutes and adds to the list of mandated reporters who must inform the Connecticut Department of Social Services (“DSS”) within 24 hours when they suspect that an elderly person needs protective services or has been abused, neglected, exploited, or abandoned. The Bill expands the list of mandated reporters to include licensed professional counselors, adult probation officers, adult parole officers, physician assistants, dental hygienists, and resident services coordinators, clinical care coordinators, and managers employed at housing authorities, or municipal developers operating elderly housing projects. Mandated reporters must also take a training program approved or developed by DSS within 90 days of becoming a mandated reporter.

PUBLIC ACT NO. 23-128**AN ACT PREVENTING AN ADVERSE ACTION AGAINST A HEALTH CARE PROVIDER DUE TO AN ADVERSE ACTION TAKEN BY ANOTHER STATE AS A RESULT OF SUCH PROVIDER'S INVOLVEMENT IN PROVIDING REPRODUCTIVE HEALTH CARE SERVICES (HB 6820)*****Sections 1 and 2: Effective from passage 06/27/23 (DCP and DPH)***

Sections 1 and 2 of PA 23-128 (the "Act") prohibit the Connecticut Department of Public Health ("DPH"), DPH professional licensing boards and commission, the Connecticut Department of Consumer Protection ("DCP"), and the Connecticut Commission of Pharmacy from denying credentialing or imposing disciplinary action on a provider due to disciplinary actions in other U.S. jurisdictions purely based on the provider's alleged provision or participation in reproductive health care services. The Act prohibits DPH from denying an applicant's eligibility for a permit, license by examination, endorsement or reciprocity, or license reinstatement. The Act also prohibits DCP and the Commission of Pharmacy from denying an applicant's eligibility for a license, permit, or registration under pharmacy laws, or disciplining someone who is licensed, permitted, or registered. The Act does not apply if the person's conduct occurred in Connecticut and would be otherwise subject to disciplinary action under Connecticut law.

Section 3: Effective from passage 06/27/23 (DPH)

Section 3 of Act prohibits institutions from revoking, suspending, reprimanding, penalizing, refusing to issue or renew credentials or privileges, or take any other adverse action against a health care provider's credentialing or privileges solely based on the provider's alleged participation in reproductive health care services or based on disciplinary action or unresolved complaints based on alleged participation in other U.S. jurisdictions. However, this does not preclude institutions from taking adverse actions against a provider that is illegal under Connecticut law or otherwise does not conform to standards of care for the provider's profession.

Section 4: Effective from passage 06/27/23 (DPH)

Section 4 of the Act prevents professional liability insurers from taking adverse action, including denial or revocation of coverage, sanctions, fines, penalties, or rate increases against a health care provider based solely on the health care provider's alleged participation in reproductive health care services or based on disciplinary action or unresolved complaints based on alleged participation in other U.S. jurisdictions. However, this does not preclude institutions from taking adverse actions against a provider that is illegal under Connecticut law or otherwise does not conform to standards of care for the provider's profession.

PUBLIC ACT NO. 23-147

AN ACT PROTECTING MATERNAL HEALTH (SB 986)

Sections 1 - 9: Effective date varies for each section (DPH)

PA 23-147 (the “Act”) creates a new license category for freestanding birth centers administered by the Connecticut Department of Public Health (“DPH”). Under the Act, a “birth center” is a freestanding DPH-licensed facility that provides perinatal, labor, delivery, and postpartum care during and immediately after delivery to those presenting with a low-risk pregnancy and healthy newborns for generally less than 24 hours. It is not a licensed hospital or attached to or located in a licensed hospital. The Act adds “birth center” to the statutory definition of health care “institution” and each birth center will be accredited by the Commission for the Accreditation of Birth Centers. The Act prohibits any person, entity, firm, partnership, corporation, limited liability company, or association from establishing or conducting a birth center without a license starting January 1, 2024. Under the Act, an outpatient clinic is also expressly prohibited from providing birth center services as part of its ambulatory medical services without a birth center license, except in the case of an emergency. Starting from January 1, 2024, DPH is also prohibited from granting or renewing a maternity hospital license. The Act makes several other changes to conform with the new birth center licensing category, including authorizing the Connecticut Office of Health Strategy’s Health Planning Unit to collect patient-related outpatient data from birth centers and requiring birth centers to report adverse events to DPH.

PUBLIC ACT NO. 23-174

AN ACT CONCERNING HOSPICE AND PALLIATIVE CARE (SB 1075)

Section 1: Effective 07/01/23 (DPH)

Section 1 of PA 23-174 (the “Act”) requires the Connecticut Department of Public Health (“DPH”) to establish a Hospice Hospital at Home pilot program in collaboration with the Connecticut Department of Social Services and hospitals in the state. The pilot program must combine in-person visits and telehealth to provide in-home hospice care to patients. The pilot program should also provide a daily telehealth visit that the patient has means to attend, in-person visits by a registered nurse at least twice daily, a personal emergency response system, remote monitoring of the patient, and telephone access to an on-call physician or advanced practice registered nurse.

Section 2: Effective 10/01/23 (DPH)

Section 2 of the Act alters the provision of hospice care services to allow an advanced practice registered nurse who provides hospice care through a DPH-licensed hospice home care agency to administer fluids or medications to patients intravenously. A registered nurse providing hospice care may do the same under the supervision of a physician.

Sections 3 and 4: Effective 01/01/24 (DPH)

Sections 3 and 4 of the Act require certain group and individual health insurance policies to cover in-home hospice services provided by a DPH-licensed hospice home care agency to the same extent that they cover hospital inpatient hospice services.

PUBLIC ACT NO. 23-19

AN ACT CONCERNING PHARMACIES AND PHARMACISTS (SB 1102)

Sections 1 and 6 - 16: Effective 07/01/23 (DCP)

Sections 1 and 6-16 of PA 23-19 (the “Act”) establish a process for governing the performance of the Connecticut Commission of Pharmacy’s (the “Commission”) duties, the practice of pharmacy and the business of retailing drugs and devices. Under the Act, institutional pharmacies located in licensed health care facilities (“health care institutional pharmacies”) can compound sterile pharmaceuticals for retail sale and subject them to the same requirements that apply to other retail pharmacies compounding sterile pharmaceuticals. The Act authorizes the Connecticut Department of Consumer Protection (“DCP”) to adopt regulations creating a class or classes of pharmacy licenses specifically for health care institutional pharmacies. It also authorizes health care institutions to apply for a pharmacy license, subject to the same existing licensing requirements as pharmacists and others applying for a license.

Sections 2 and 5: Effective 07/01/23 (DCP)

Sections 2 and 5 of the Act broaden the scope of practice for pharmacists by allowing them to 1) administer additional vaccines, including epinephrine cartridge injectors, 2) order and administer COVID-19, HIV, and influenza related tests, and 3) prescribe HIV-related prophylaxis as needed. The Act also expands the types of vaccines pharmacists can administer to people ages 12 or older and eliminates the requirement that a pharmacist-administered vaccine only be administered if ordered by a health care provider. The Act also enables pharmacy technicians meeting certain criteria administer the same vaccines as pharmacists.

Section 3: Effective 07/01/23 (DCP)

Section 3 of the Act permits a pharmacy to apply to the DCP to operate a mobile pharmacy in a temporary location to conduct temporary pharmacy operations, vaccination events, or opioid antagonist training and prescribing events, or to serve a community without adequate access to pharmacy services. DCP is responsible for prescribing the form and manner of the application, the approval process, and may inspect the mobile pharmacy as needed.

Section 4: Effective 07/01/23 (DCP)

Section 4 of the Act requires each pharmacy to create protocols for managing unscheduled closures. The plan must include the person responsible for notifying the Commission about an unscheduled closing, the person responsible for updating the pharmacy’s operating hours in the electronic record system, the person responsible for updating the pharmacy’s telephone system, a list of all pharmacies located within specific proximity, and the person responsible for notifying the closure’s duration at the pharmacy’s entrance. The Act asks for the DCP to adopt regulations to implement the Act’s provisions on unscheduled pharmacy closures and allow and regulation prescription pickup lockers.

PUBLIC ACT NO. 23-56**AN ACT CONCERNING ONLINE PRIVACY, DATA AND SAFETY PROTECTIONS (SB 3)*****Section 1: Effective 07/01/23 (MISC)***

Section 1 of PA 23-56 repeals section 42-515 of the General Statutes and protects “consumer health data,” which is any personal data that a controller uses to identify a consumer’s physical or mental health condition or diagnosis, including gender-affirming health data and reproductive or sexual health data. The Act defines “gender-affirming health data” as any personal data pertaining to a consumer’s efforts to seek or receive gender-affirming health care services, such as all medical care related to gender dysphoria treatments. The Act defines “reproductive or sexual health data” as any personal data about a consumer’s effort to seek, or receive, reproductive or sexual health care. Under the Act, “reproductive or sexual health care” is any health service or product that concerns a consumer’s reproductive system or sexual well-being, including any that concern: 1) an individual health condition, status, disease, diagnosis, diagnostic test, or treatment; 2) a social, psychological, behavioral, or medical intervention; 3) a surgery or procedure, including an abortion; 4) medication use or purchase, including for the purposes of an abortion; 5) a bodily function, vital sign, or symptom (or measurement of any of them); or 6) an abortion, including related medical or nonmedical services, products, diagnostics, counseling, or follow-up services.

Sections 2 and 3: Effective 07/01/23 (MISC)

Sections 2 and 3 of the Act prohibit several actions relating to consumer health data, including 1) prohibiting anyone from providing any employee or contractor with access to consumer health data, unless subject to confidentiality, 2) prohibiting providing a processor with access to consumer health data, 3) prohibiting anyone from using a geofence to set a virtual boundary within 1,750 feet of mental health, reproductive, or sexual health facilities to identify track, collect data from, or send notifications to consumers about their health data, and 4) prohibiting anyone from selling consumer health data without first getting consumer consent. Under the Act “reproductive or sexual health facility” is defined as any health care facility in which at least 70% of its health care-related services or products are for reproductive or sexual health care. A “mental health facility” is any health care facility in which at least 70% of its health care services are mental health services. The Act’s provisions on consumer health data management apply to all individuals or entities that conduct business in Connecticut or provide products or services that are catered to Connecticut residents, but under the state’s existing consumer data privacy and online monitoring law, the Act’s consumer health data management provisions do not apply to all entities.

PUBLIC ACT NO. 23-204**AN ACT CONCERNING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2025, AND MAKING APPROPRIATIONS THEREFOR, AND PROVISIONS RELATED TO REVENUE AND OTHER ITEMS IMPLEMENTING THE STATE BUDGET (HB 6941)*****Section 54: Effective 10/01/23 (DPH)***

Section 54 of PA 23-204 (the “Act”) requires hospitals to report their prospective nurse staffing plans biannually to the Connecticut Department of Public Health (“DPH”) and expand the required content of those plans. The hospital plans must

include information on hospital staff objections or refusals to comply with the nurse staffing plan that were communicated to the hospital staffing committee, methodology to support the plan's successful implementation, direct care registered nurse ("RN") staff retention, turnover, and recruitment metrics, the number of times that the hospital was non-compliant with the plan, and certification that the hospital and its hospital staffing committee are meeting the Act's requirements and how the requirements are met. The Act also establishes the criteria committees must consider in developing hospital nursing staffing plans. Under the Act, DPH must also investigate any complaints of hospital noncompliance with nurse staffing requirements and issue orders that require hospitals to implement corrective action plans. Hospitals are also prohibited from requiring RNs to perform patient care tasks beyond the scope of their license.

Section 55: Effective 10/01/23 (DPH)

Section 55 of the Act prohibits hospitals from requiring nurses to work overtime and from discriminating or retaliating against them for refusing to do so. However, when considering the safety of a patient, and if there is no reasonable alternative, a nurse may be required to work overtime when: 1) a nurse is participating in an ongoing surgical procedure until the procedure is completed; 2) a nurse is working in a critical care unit until the nurse is relieved by another nurse who is starting a scheduled work shift; 3) there is a public health emergency; 4) there is an institutional emergency; or 5) any nurse is employed at a behavioral health facility operated by a state agency who is covered by a collective bargaining agreement that contains provisions addressing the issue of mandatory overtime. Nurses may volunteer or agree to work overtime.

Sections 200 and 201: Effective 10/01/23 and 07/01/23, respectively (DPH)

Sections 200 and 201 of the Act requires cytomegalovirus ("CMV") testing as part of the existing newborn screening program, therefore mandating all newborns be tested for CMV. Under the Act, DPH must also convene a CMV working group to study the condition, including treatment for newborns with positive asymptomatic screening results, best practices for universal screening, and education for health care providers and vulnerable populations.

Sections 235 and 236: Effective 07/01/23 (DPH)

Sections 235 and 236 of the Act prohibit step therapy for drugs used to treat schizophrenia, major depressive disorder or bipolar disorder for a three-year period beginning January 1, 2024. Step therapy is a protocol for establishing a sequence for prescribing drugs that requires patients to try less expensive drugs before higher cost drugs. The Act also allows a health care provider treating an insured with these conditions to deem step therapy clinically ineffective.

Section 297: Effective from passage (DSS)

Section 297 of the Act requires DSS to increase the adult rates for specific "complex care nursing services" provided by home health care agencies or home health aide agencies. The adult rates for at-home complex care nursing services must equal the pediatric rate. Under the Act, age-based rate differentials are prohibited for these services.

PUBLIC ACT NO. 23-31

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES (HB 6733)

Sections 1 and 9: Effective 10/01/23 (DPH)

Sections 1 and 9 of PA 23-31 (the "Act") create new statutory definitions and licensure categories for blood collection facilities and plasma donation centers. Starting October 1, 2023, any person or business is prohibited from establishing, conducting, operating, or maintaining a facility or center unless it obtains the license. The Act also requires the Connecticut Department of Public Health ("DPH") to adopt regulations to implement the new licensure categories, which must include the requirement that a registered nurse or advanced practice registered nurse be on-site during the facility's operating hours. The Act expands the statutory definition of "health care institution" to include blood collection facilities and source plasma donation centers, therefore subjecting these facilities to DPH licensure, inspection, and complaint investigation requirements. DPH inspections include any necessary records inspection, as required for clinical laboratories under existing law. After receiving an initial or license renewal application for a blood collection facility or source plasma donation center, DPH must also conduct any inspections or investigations it finds necessary to determine an applicant's eligibility for licensure.

Sections 1 and 2: Section 2 effective from passage 06/07/23 (DPH)

Sections 1 and 2 of the Act allow assisted living services agencies ("ALSA"), which provide nursing services and assistance with activities of daily living to people with stable chronic illness, to also serve people who are no longer chronic and stable under limited conditions. These conditions include if the person is under the care of a licensed home health care agency or hospice agency or if the ALSA is arranging, in conjunction with a managed residential community, the delivery of ancillary medical services on the person's behalf. These medical services can include physician, dental, hospice care, home health agency, pharmacy, podiatry, and restorative physical therapy services.

Sections 3 and 4: Effective from passage and 10/01/23, respectively (DPH)

Sections 3 and 4 of the Act require DPH to temporarily waive the requirement that an applicant for a master social worker license pass the Association of Social Work Board's masters level examination until January 1, 2026, and then reinstate it. The Act also allows the required five hours of in-person continuing education ("CE") to be earned through live online classes.

Section 8: Effective 07/01/23 (DPH)

Section 8 of the Act requires DPH to biennially inspect ambulance and other authorized emergency medical services ("EMS") vehicles that are registered with the Department of Motor Vehicles to ensure they meet minimum vehicle design and equipment standards.

Section 11: Effective 10/01/23 (DPH)

Section 11 of the Act expands current law by requiring licensed primary care physicians, advanced practice registered nurses, and physician assistants to provide or order a hepatitis C screening or diagnostic test for patients ages 18 and older and for pregnant women.

Section 18: Effective 07/01/23 (DPH)

Section 18 of the Act rescinds an automatic reciprocal discipline against a pharmacist or health care professional currently or previously licensed in another state or jurisdiction when the health professional or pharmacist is subject to automatic reciprocal discipline for disciplinary action in that state or jurisdiction and the discipline was exclusively due to pregnancy termination under conditions that do not violate Connecticut laws or regulations. The Act prohibits DPH from entering automatic reciprocal discipline from such situations into the health professional's or pharmacist's licensing record. However, this does not affect the ability of a state agency or board to seek or impose any state law-authorized disciplinary action against Connecticut-licensed pharmacists or other health care professionals.

Sections 28-42 and 52: Effective date varies for each section (DPH)

The Act makes several changes affecting lead poisoning prevention and treatment, such as reducing the timeframe within which a provider may notify the parent of a child under age 3 with elevated blood lead levels, modifying the blood lead level thresholds at which health department programs are required to provide children case management services, and requiring pediatricians to complete annual lead risk assessments for all children under age 6.

PUBLIC ACT NO. 23-52

AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING PRESCRIPTION DRUG REGULATION (HB 6768)

Sections 1-4: Effective from various dates (DCP)

Sections 1-4 of PA 23-52 (the "Act") establish 1) a new Connecticut Department of Consumer Protection ("DCP") registration for dispensing group practices and dispensing assistants that dispense prescriptions directly to patients instead through pharmacies, and establish related registration and advertising requirements and disciplinary actions; 2) permit pharmacists to refill prescriptions for certain legend devices approved to be used in combination with prescription medications, and establish related notification requirements, 3) authorize pharmacists to prescribe emergency or hormonal contraception under certain conditions, and 4) require pharmacists to provide patients with a list of nearby pharmacies that dispense medication to terminate a pregnancy if the pharmacy is out of supply. Under the Act, a pharmacist previously or currently licensed in another state or jurisdiction cannot be subject to automatic reciprocal discipline in Connecticut for any disciplinary action taken in another state or jurisdiction if it was based exclusively on terminating a pregnancy in situations that do not violate Connecticut law and regulations.

Section 6: Effective 06/13/23 (DCP)

Section 6 of the Act repeals section 20-623 of the General Statutes and allows DCP to issue non-legend drug permits to any business seeking to operate vending businesses that sell over the counter ("OTC") medications such as ibuprofen and acetaminophen. The Act calls for vending machines containing OTC medications to be owned and operated by a business holding a non-legend drug permit. Only one permit per location is needed where vending machines are operated, and each machine must also be registered with DCP.

Section 12: Effective from passage (DCP)

Section 12 of the Act repeals section 21a-286 of the General Statutes and expands the public's opioid antagonist access by allowing

prescribing practitioners and pharmacists to collaborate with various host agencies to provide any intranasally or orally administered opioid antagonists. Host agencies may include law enforcement, school boards, and syringe services programs. The Act also extends provisions for criminal, civil, and administrative liability protections to prescribing practitioners and pharmacists who enter into agreements with host agencies and syringe services programs.

Section 13: Effective from passage (DCP)

Section 13 of the Act repeals section 21a-408c of the General Statutes and permits physicians, advanced practice registered nurses, and physician assistants to certify medical marijuana patients and provide follow-up care using telehealth, if they comply with other statutory certifications and recordkeeping requirements, indefinitely.

PUBLIC ACT NO. 23-195

AN ACT CONCERNING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES (HB 6835)

Section 1: Effective 10/01/23 (DCP)

Section 1 of PA 23-195 (the “Act”) prohibits a health care facility, such as an outpatient surgical facility or hospital, from employing or retaining any individual to perform surgical technology services unless the individual has successfully completed a nationally accredited surgical technology program and holds and maintains certification as a surgical technologist from a national certifying body that is recognized by the Connecticut Department of Public Health (“DPH”), works as a surgical technologist in a health care facility on or before October 1, 2023, or has been designated by the hospital or outpatient surgical facility as being competent to perform surgical technology services. A person performing surgical technology services who is acting within scope of their license, certification, registration, permit, or designation, or is a student or intern under direct supervision is exempt from these above requirements.

Section 14: Effective 06/23/23 (DCP)

Section 14 of the Act addresses hospital medical staff appointments. Notably, the Act amends existing law (which requires hospital medical staff appointments every one or two years) and authorizes hospitals to appoint their medical staff or individual medical staff members every two or three years in a manner consistent with the 1) conditions and standards of participation in Medicare and 2) requirements of approved national accreditation organizations in accordance with 42 CFR 488.8.

Section 15: Effective 07/01/23 (DCP)

Section 15 of the Act repeals section 7-51 of the General Statutes and requires hospitals to give the mother of a stillborn child a written notification about the deceased child’s burial and cremation arrangement options under certain conditions. The Act requires the mothers who receive the notification to inform the hospital in writing of their decision on the stillborn child’s disposition. The Act does not prohibit a health care provider or hospital from giving the written notification to the mother’s family member or friend, consistent with HIPAA privacy protections, or referring the mother and other known parent to a licensed funeral director for additional information on dispositions options.

PUBLIC ACT NO. 23-97

AN ACT CONCERNING HEALTH AND WELLNESS FOR CONNECTICUT RESIDENTS (SB 9)***Section 1: Effective from passage (DPH)***

Section 1 of the PA 23-97 (the “Act”) prohibits barring or unreasonably limiting some from; 1) accessing assisted reproductive technology (“ART”) and assisted reproduction, 2) continuing or completing an ongoing ART or assisted reproduction treatment or procedure, or 3) retaining rights on the use of reproductive genetic materials. The Act also prohibits anyone from barring or unreasonably limiting a health care provider who is licensed, certified, or otherwise authorized to perform ART or assisted reproduction treatments from doing so, or providing evidence-based information related to ART or assisted reproduction.

Section 2: Effective 07/01/23 (DPH)

Section 2 of the Act requires Medicaid funding for same-day access to long-acting reversible contraceptives (“LARC”) at federally qualified health centers.

Section 6: Effective 10/01/23 (DPH)

Section 6 of the Act calls upon providers, when prescribing an opioid, to encourage the patient to obtain an opioid antagonist. If the patient is a minor, the prescriber must encourage the patient’s parent, guardian, or other person with legal custody to obtain an opioid antagonist if they are present when the opioid is prescribed.

Section 12: Effective 10/01/23 (DPH)

Section 12 of the Act prohibits hospitals or medical review committees, for the purpose of granting practice privileges, from requiring board eligible physicians to become board certified until five years after becoming board eligible. It also prohibits them from requiring board certified physicians to provide credentials of board recertification for the purposes of granting practice privileges or allowing a physician to retain those privileges.

Sections 13-15: Effective 07/01/23 (DPH)

Sections 13-15 of the Act relate to non-compete clauses. The Act specifies that a provider’s primary practice site is determined by the parties to the agreement for the purposes of non-compete agreements. The Act also states that physician non-compete agreements entered into, amended, extended, or renewed on or after October 1, 2023 are generally unenforceable if: 1) the physician does not agree to a proposed material change to the compensation terms of the employment contract or agreement before or when it is extended or renewed; and 2) the contract or agreement expires and is not renewed by the employer, or the employer terminates the contractual relationship unless the employer terminates it for cause. However, this limitation does not apply if the agreement is between a physician and group practice of up to 35 physicians and if physicians own the majority of the practice. The Act also generally extends the limitations that apply to physician non-compete clauses to advanced practice registered nurse and physician assistant non-compete clauses. The Act also generally extends the limitations that apply to physician non-compete clauses to advanced practice registered nurse and physician assistant non-compete clauses. The Act also generally extends the limitations that apply to physician non-compete clauses to advanced practice registered nurse and physician assistant non-compete clauses. The Act also generally extends the limitations that apply to physician non-compete clauses to advanced practice registered nurse and physician assistant non-compete clauses. The Act also generally extends the limitations that apply to physician non-compete clauses to advanced practice registered nurse and physician assistant non-compete clauses. The Act also generally extends the limitations that apply to physician non-compete clauses to advanced practice registered nurse and physician assistant non-compete clauses.

Section 17: Effective 07/01/23 (DPH)

Section 17 of the Act requires background checks for physical therapist and physical therapist assistant licensure applicants to complete a fingerprint-based criminal background check.

Section 18: Effective 07/01/23 (DPH)

Section 18 of the Act requires DPH to establish a podiatric scope of practice working group to advise DPH and any relevant scope of practice review committee on podiatrists' scope of practice relating to surgical procedures.

Sections 19 and 20: Effective 10/01/23 (DPH)

Sections 19 and 20 of the Act permit for licensure by endorsement for advanced practice registered nurses ("ARNP"s) who have practiced for at least three years in another state with practice standards substantially like, or surpassing those of Connecticut, and have no disciplinary history or unresolved complaints. The Act also allows these ARPNs to include their out-of-state practice towards the requirement of three year's practice in collaboration with a physician before practicing independently.

Sections 25 and 26: Effective from passage and 10/01/23, respectively (DPH)

Sections 25 and 26 of the Act require DPH, in consultation with DMHAS and certain other organizations, to develop a maternal mental health toolkit for providers and new parents in the state. The toolkit must at least include 1) information about perinatal mood and anxiety disorders and a list of licensed health care professionals, peer support networks, and nonprofit organizations in the state that treat these disorders or provide related support for patients and their family members. The Act also requires hospitals to include training in perinatal mood and anxiety disorders as part of their regular training for staff members who directly care for women that are pregnant or in the postpartum period.

Sections 40 and 41: Effective 10/01/23 and from passage, respectively (DPH)

Sections 40 and 41 of the Act provide an alternate way for dental assistants to qualify to take dental x-rays (i.e., passing a competency assessment rather than a national exam) and require the UConn School of Dental Medicine to develop the assessment by January 1, 2025.

Section 42: Effective 10/01/23 (DPH)

Section 42 of the Act regulates epinephrine administration and requires EMS personnel, under specified conditions, to administer epinephrine using automatic prefilled cartridge injectors, similar automatic injectable equipment, or prefilled vials and syringes.

Section 43: Effective 01/01/24 (DPH)

Section 43 of the Act sets broad deadlines for licensed health care institutions to send electronic copies of patient medical records to another institution upon receiving a medical records request. The transfer must occur 1) no later than six days for urgent requests, or 2) within seven business days for non-urgent requests. However, DMHAS-operated facilities and

hospital and psychiatric residential treatment facility units of the Albert J. Solnit Children's Center are exempt from these requirements. These provisions also do not apply if doing so would violate HIPAA or related regulations, in response to a direct request from another provider (unless the provider can validate relationship with patient), and in response to a third-party request. administer epinephrine using automatic prefilled cartridge injectors, similar automatic injectable equipment, or prefilled vials and syringes.

Sections 45 and 46: Effective 07/01/23 (DPH)

Sections 45 and 46 of the Act require psychologist licensure applicants and physician applicants who wish to participate in interstate compacts, to submit to a state and national fingerprint-based criminal history records check by DESPP. The Act requires DESPP to report the results of physicians' record checks to DPH and thereby allows physicians and psychologists to participate in the Interstate Medical Licensure Compact and the Psychology Interjurisdiction Compact. These compacts require providers to complete an FBI fingerprint background check as a condition of participation.

If you have questions about any of these legislative updates, please contact one of the lawyers in [Shipman's Health Law practice group](#).

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