



# House of Representatives

General Assembly

**File No. 527**

February Session, 2008

Substitute House Bill No. 5630

*House of Representatives, April 8, 2008*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT PROMOTING CONSISTENCY AMONG PEER REVIEW PROCEEDINGS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 17a-210 of the 2008 supplement  
2 to the general statutes is repealed and the following is substituted in  
3 lieu thereof (*Effective October 1, 2008*):

4 (a) There shall be a Department of Developmental Services. The  
5 Department of Developmental Services, with the advice of a Council  
6 on [Mental Retardation] Developmental Services, shall be responsible  
7 for the planning, development and administration of complete,  
8 comprehensive and integrated state-wide services for persons with  
9 mental retardation and persons medically diagnosed as having Prader-  
10 Willi syndrome. The Department of Developmental Services shall be  
11 under the supervision of a Commissioner of Developmental Services,  
12 who shall be appointed by the Governor in accordance with the  
13 provisions of sections 4-5 to 4-8, inclusive. The Council on [Mental  
14 Retardation] Developmental Services may advise the Governor on the

15 appointment. The commissioner shall be a person who has  
16 background, training, education or experience in administering  
17 programs for the care, training, education, treatment and custody of  
18 persons with mental retardation. The commissioner shall be  
19 responsible, with the advice of the council, for: (1) Planning and  
20 developing complete, comprehensive and integrated state-wide  
21 services for persons with mental retardation; (2) the implementation  
22 and where appropriate the funding of such services; and (3) the  
23 coordination of the efforts of the Department of Developmental  
24 Services with those of other state departments and agencies, municipal  
25 governments and private agencies concerned with and providing  
26 services for persons with mental retardation. The commissioner shall  
27 be responsible for the administration and operation of the state  
28 training school, state [mental retardation] developmental services  
29 regions and all state-operated community-based residential facilities  
30 established for the diagnosis, care and training of persons with mental  
31 retardation. The commissioner shall be responsible for establishing  
32 standards, providing technical assistance and exercising the requisite  
33 supervision of all state-supported residential, day and program  
34 support services for persons with mental retardation and work activity  
35 programs operated pursuant to section 17a-226 of the 2008 supplement  
36 to the general statutes. The commissioner shall stimulate research by  
37 public and private agencies, institutions of higher education and  
38 hospitals, in the interest of the elimination and amelioration of  
39 retardation and care and training of persons with mental retardation.  
40 The commissioner shall conduct or monitor investigations into  
41 allegations of abuse and neglect and file reports as requested by state  
42 agencies having statutory responsibility for the conduct and oversight  
43 of such investigations. In the event of the death of a person with  
44 mental retardation for whom the department has direct or oversight  
45 responsibility for medical care, the commissioner shall ensure that a  
46 comprehensive and timely review of the events, overall care, quality of  
47 life issues and medical care preceding such death is conducted by the  
48 department and shall, as requested, provide information and  
49 assistance to the Independent Mortality Review Board established by

50 Executive Order No. 25 of Governor John G. Rowland. The  
 51 commissioner shall report to the board and the board shall review any  
 52 death: (A) Involving an allegation of abuse or neglect; (B) for which the  
 53 Office of Chief Medical Examiner or local medical examiner has  
 54 accepted jurisdiction; (C) in which an autopsy was performed; (D)  
 55 which was sudden and unexpected; or (E) in which the commissioner's  
 56 review raises questions about the appropriateness of care. [The  
 57 commissioner shall stimulate research by public and private agencies,  
 58 institutions of higher learning and hospitals, in the interest of the  
 59 elimination and amelioration of retardation and care and training of  
 60 persons with mental retardation.] The department's mortality review  
 61 process and the Independent Mortality Review Board shall operate in  
 62 accordance with the peer review provisions established under section  
 63 19a-17b for medical review teams and confidentiality of records  
 64 provisions established under section 19a-25 for the Department of  
 65 Public Health.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	17a-210(a)

**PH**      *Joint Favorable Subst.-LCO C/R*      JUD  
**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill applies the peer review provisions under current law to the Department of Developmental Services' mortality review process and makes other technical changes that will not result in a fiscal impact.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

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**OLR Bill Analysis**

**HB 5630**

***AN ACT PROMOTING CONSISTENCY AMONG PEER REVIEW PROCEEDINGS.***

**SUMMARY:**

This bill applies confidentiality and immunity provisions of the medical peer review and public health record laws to the operations of the Department of Developmental Services' (DDS) mortality review teams and the Independent Mortality Review Board. The DDS teams are composed of regional department staff who review all client deaths and develop corrective action plans, where appropriate. The DDS commissioner must report to the review board any death in which (1) the DDS teams raise questions about the client's care, (2) abuse or neglect has been alleged, (3) the Office of Chief Medical Examiner has accepted jurisdiction, (4) an autopsy was performed, or (5) the death was unexpected. The board, which was established by executive order, must investigate each report.

The bill also changes the names of (1) the council that advises DDS and (2) the department's regions, to reflect the department's 2007 name change from the Department of Mental Retardation.

EFFECTIVE DATE: October 1, 2008

**CONFIDENTIALITY**

By law, all information, interview records, written reports, statements, notes, memoranda, or other data (including personal data) the Public Health Department (DPH) or DPH-licensed facilities obtain in connection with morbidity and mortality studies is confidential. It can be used only for medical or scientific research and can be disclosed only for purposes of the project to which it relates. And DPH can

disclose personal data for medical or scientific research to other government agencies and private research organizations as long as they do not further disclose it. The information is not admissible as evidence in any kind of judicial or administrative action (CGS § 19a-25).

Peer review is the process for health care professionals to evaluate the quality and efficiency of the services another health care professional performs or orders. The proceedings of a peer review committee are not subject to discovery and cannot be introduced into evidence in a civil action for or against a health care provider that arises from the matters the committee reviewed. No one who attended a committee meeting can be allowed or required to testify in such an action about what occurred during the meeting. But the law permits in any civil action:

1. a person testifying about his or her personal knowledge of why the peer review was instituted, as long as this knowledge was acquired independently of the peer review process;
2. the use of any writing recorded independently of the peer review; or
3. disclosure of the fact that staff privileges were terminated or restricted, including the specific restriction.

The law also permits the use of data developed during a peer review in any proceeding concerning termination or restriction of staff privileges (CGS § 19a-17b(d)).

## **IMMUNITY**

### ***Public Health Records***

An individual, hospital, rest home, nursing home, or other agency that provides information to DPH, its representative, or any other agency cooperating in a morbidity, mortality, or other research project is not subject to any action for damages or other relief because of its disclosure (CGS § 19a-25).

**Peer Review**

Anyone who testifies before or provides information, various documents, or conclusions to a hospital, hospital medical staff, professional society, medical or dental school, professional licensing board, or peer review committee that is intended to help evaluate a health care professional's qualifications, fitness, or character is not subject to monetary liability or any cause of action for damages as long as the person does not represent as true something he or she does not reasonably believe to be true (CGS § 19a-17b(b)).

Members of a peer review committee are not subject to monetary liability or any cause of action for damages for any act or proceeding that is within the committee's scope, as long as the individual acted without malice and in reasonable belief that his or her action was warranted (CGS § 19a-17b(c)).

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Change of Reference

Yea 28 Nay 0 (03/14/2008)

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (03/24/2008)