



Senate

General Assembly

File No. 172

February Session, 2008

Substitute Senate Bill No. 471

Senate, March 26, 2008

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT EXTENDING THE STATE PHYSICIAN PROFILE TO CERTAIN OTHER HEALTH CARE PROVIDERS.

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

1 Section 1. Section 20-13j of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) For the purposes of this section:

4 (1) "Department" means the Department of Public Health; [] and
5 ["physician" means a physician licensed pursuant to this chapter]

6 (2) "Health care provider" means: (A) A physician licensed under
7 this chapter; (B) a dentist licensed under chapter 379; (C) a chiropractor
8 licensed under chapter 372; (D) an optometrist licensed under chapter
9 380; (E) a podiatrist licensed under chapter 375; (F) a natureopath
10 licensed under chapter 373; (G) a dental hygienist licensed under
11 chapter 379a; (H) an advanced practice registered nurse licensed under
12 chapter 378; or (I) a physical therapist licensed under chapter 376.

13 (b) The department, after consultation with the Connecticut Medical
14 Examining Board, [and] the Connecticut State Medical Society, or any
15 other appropriate state board, shall collect the following information to
16 create an individual profile on each [physician] health care provider
17 for dissemination to the public:

18 (1) The name of the medical or dental school, chiropractic college,
19 school or college of optometry, school or college of chiropody or
20 podiatry, school or college of natureopathy, school of dental hygiene,
21 school of physical therapy or other school or institution giving
22 instruction in the healing arts attended by the [physician] health care
23 provider and the date of graduation;

24 (2) The site, training, discipline and inclusive dates of [the
25 physician's] any completed postgraduate [medical] education or other
26 professional education required pursuant to the applicable licensure
27 section of the general statutes;

28 (3) The area of the [physician's] health care provider's practice
29 specialty;

30 (4) The address of the [physician's] health care provider's primary
31 practice location or primary practice locations, if more than one;

32 (5) A list of languages, other than English, spoken at the
33 [physician's] health care provider's primary practice locations;

34 (6) An indication of any disciplinary action taken against the
35 [physician] health care provider by the department, the appropriate
36 state board or any professional licensing or disciplinary body in
37 another jurisdiction;

38 (7) [Any] With respect to a physician, any current certifications
39 issued to the physician by a specialty board of the American Board of
40 Medical Specialties;

41 (8) The hospitals and nursing homes at which the [physician has
42 admitting] health care provider has been granted privileges;

43 (9) [Any] With respect to a physician, any appointments of the
44 physician to a Connecticut medical school [faculties] faculty and an
45 indication as to whether the physician has current responsibility for
46 graduate medical education;

47 (10) A listing of the [physician's] health care provider's publications
48 in peer reviewed literature;

49 (11) A listing of the [physician's] health care provider's professional
50 services, activities and awards;

51 (12) Any hospital disciplinary actions against the [physician] health
52 care provider that resulted, within the past ten years, in the
53 termination or revocation of the [physician's] health care provider's
54 hospital privileges for a [medical] professional disciplinary cause or
55 reason, or the resignation from, or nonrenewal of, [medical]
56 professional staff membership or the restriction of privileges at a
57 hospital taken in lieu of or in settlement of a pending disciplinary case
58 related to [medical] professional competence in such hospital;

59 (13) A description of any criminal conviction of the [physician]
60 health care provider for a felony within the last ten years. For the
61 purposes of this subdivision, a [physician] health care provider shall
62 be deemed to be convicted of a felony if the [physician] health care
63 provider pleaded guilty or was found or adjudged guilty by a court of
64 competent jurisdiction or has been convicted of a felony by the entry of
65 a plea of nolo contendere;

66 (14) To the extent available, and consistent with the provisions of
67 subsection (c) of this section, all [medical] professional malpractice
68 court judgments and all [medical] professional malpractice arbitration
69 awards against the [physician] health care provider in which a
70 payment was awarded to a complaining party during the last ten
71 years, and all settlements of [medical] professional malpractice claims
72 against the [physician] health care provider in which a payment was
73 made to a complaining party within the last ten years;

74 (15) An indication as to whether the [physician] health care provider
75 is actively involved in patient care; and

76 (16) The name of the [physician's] health care provider's
77 professional liability insurance carrier.

78 (c) Any report of a [medical] professional malpractice judgment or
79 award against a [physician] health care provider made under
80 subdivision (14) of subsection (b) of this section shall comply with the
81 following: (1) Dispositions of paid claims shall be reported in a
82 minimum of three graduated categories indicating the level of
83 significance of the award or settlement; (2) information concerning
84 paid [medical] professional malpractice claims shall be placed in
85 context by comparing an individual [physician's medical] health care
86 provider's professional malpractice judgments, awards and
87 settlements to the experience of other [physicians] health care
88 providers licensed in Connecticut who perform procedures and treat
89 patients with a similar degree of risk; (3) all judgment award and
90 settlement information reported shall be limited to amounts actually
91 paid by or on behalf of the [physician] health care provider; and (4)
92 comparisons of professional malpractice payment data shall be
93 accompanied by (A) an explanation of the fact that [physicians] health
94 care providers treating certain patients and performing certain
95 procedures are more likely to be the subject of litigation than others
96 and that the comparison given is for [physicians] health care providers
97 who perform procedures and treat patients with a similar degree of
98 risk; (B) a statement that the report reflects data for the last ten years
99 and the recipient should take into account the number of years the
100 [physician] health care provider has been in practice when considering
101 the data; (C) an explanation that an incident giving rise to a
102 professional malpractice claim may have occurred years before any
103 payment was made due to the time lawsuits take to move through the
104 legal system; (D) an explanation of the effect of treating high-risk
105 patients on a [physician's] health care provider's professional
106 malpractice history; and (E) an explanation that professional
107 malpractice cases may be settled for reasons other than liability and

108 that settlements are sometimes made by the insurer without the
109 [physician's] health care provider's consent. Information concerning all
110 settlements shall be accompanied by the following statement:
111 "Settlement of a claim may occur for a variety of reasons that do not
112 necessarily reflect negatively on the professional competence or
113 conduct of the [physician] health care provider. A payment in
114 settlement of a [medical] professional malpractice action or claim
115 should not be construed as creating a presumption that [medical]
116 professional malpractice has occurred."

117 (d) Pending professional malpractice claims against a [physician]
118 health care provider and actual amounts paid by or on behalf of a
119 [physician] health care provider in connection with a professional
120 malpractice judgment, award or settlement shall not be disclosed by
121 the department to the public. This subsection shall not be construed to
122 prevent the department from investigating and disciplining a
123 [physician] health care provider on the basis of [medical] professional
124 malpractice claims that are pending.

125 (e) Prior to the initial release of a [physician's] health care provider's
126 profile to the public, the department shall provide the [physician]
127 health care provider with a copy of the [physician's] health care
128 provider's profile. Additionally, any amendments or modifications to
129 the profile that were not supplied by the [physician] health care
130 provider or not generated by the department itself shall be provided to
131 the [physician] health care provider for review prior to release to the
132 public. A [physician] health care provider shall have sixty days from
133 the date the department mails or delivers the prepublication copy to
134 dispute the accuracy of any information that the department proposes
135 to include in such profile and to submit a written statement setting
136 forth the basis for such dispute. If a [physician] health care provider
137 does not notify the department that the [physician] health care
138 provider disputes the accuracy of such information within such sixty-
139 day period, the department shall make the profile available to the
140 public and the [physician] health care provider shall be deemed to
141 have approved the profile and all information contained [therein] in

142 the profile. If a [physician] health care provider notifies the department
143 that the [physician] health care provider disputes the accuracy of such
144 information in accordance with this subsection, the [physician's] health
145 care provider's profile shall be released to the public without the
146 disputed information, but with a statement to the effect that
147 information in the identified category is currently the subject of a
148 dispute and is therefore not currently available. Not later than thirty
149 days after the department's receipt of notice of a dispute, the
150 department shall review any information submitted by the [physician]
151 health care provider in support of such dispute and determine whether
152 to amend the information contained in the profile. In the event that the
153 department determines not to amend the disputed information, the
154 disputed information shall be included in the profile with a statement
155 that such information is disputed by the [physician] health care
156 provider.

157 (f) A [physician] health care provider may elect to have the
158 [physician's] health care provider's profile omit information provided
159 pursuant to subdivisions (9) to (11), inclusive, of subsection (b) of this
160 section. In collecting information for such profiles and in the
161 dissemination of such profiles, the department shall inform
162 [physicians] health care providers that they may choose not to provide
163 the information described in said subdivisions (9) to (11), inclusive.

164 (g) Each profile created pursuant to this section shall include the
165 following statement: "This profile contains information that may be
166 used as a starting point in evaluating [the physician] a health care
167 provider. This profile should not, however, be your sole basis for
168 selecting a [physician] health care provider."

169 (h) The department shall maintain a web site on the Internet for use
170 by the public in obtaining profiles of [physicians] health care
171 providers.

172 (i) No state law that would otherwise prohibit, limit or penalize
173 disclosure of information about a [physician] health care provider shall
174 apply to disclosure of information required by this section.

175 (j) All information provided by a [physician] health care provider
 176 pursuant to this section shall be subject to the [penalties of] penalty for
 177 false statement [, pursuant to] under section 53a-157b.

178 (k) Except for the information in subdivisions (1), (2), (10) and (11)
 179 of subsection (b) of this section, a [physician] health care provider shall
 180 notify the department of any changes to the information required in
 181 [said] subsection (b) of this section not later than sixty days after such
 182 change.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	20-13j

INS *Joint Favorable Subst.*

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:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Public Health, Dept.	GF - Cost	1,817,900	at least 285,900
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	63,197	97,267

Note: GF=General Fund

Municipal Impact: None

Explanation

The Department of Public Health (DPH) will incur FY 09 costs of approximately \$1.82 million to expand its current physician profile database system to include dentists, chiropractors, optometrists, podiatrists, naturopaths, dental hygienists, advanced practice registered nurses and physical therapists by 10/1/08. This includes:

YEAR 1	
<u>One Time Costs</u>	
Costs to upgrade computer platform	\$1,200,000
Consultant charges related to staff training	180,000
Supplies; postage to mail survey to 15,850 practitioners	60,000
2 Temporary clerical staff for initial data entry & follow-up	83,300
Equipment/Software	8,700
Total - One Time Costs	\$1,532,000
<u>Ongoing Costs</u>	
Department of Information Technology (DoIT) hosting fees	\$120,000
3 Permanent staff (Health Program Associate, Office Assistant, IT	165,900

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

Analyst)	
Total - Ongoing Costs	\$285,900
Total - Year 1 Costs	\$1,817,900

In FY 10 and subsequent fiscal years, ongoing costs associated with this initiative will be \$285,900 as the temporary clerical staff will not be required after the initial data entry effort is completed and one-time software and equipment costs will not recur. Additional costs (\$63,197 in FY 09; \$97,267 in FY 10) will be incurred for associated fringe benefits.

A further future potential cost would be incurred should the department incorporate data collection for the expanded provider profile system into a pending on-line licensure system. These costs would be associated with additional conveyance fees, at an annualized cost of \$45,000. The on-line licensure system is not anticipated to be operational until FY 10.

It is expected that information concerning each provider's history of medical malpractice or criminal activity will be self-reported. Therefore, no resulting fiscal impact is anticipated for either the Departments of Insurance or Public Safety.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 471*****AN ACT EXTENDING THE STATE PHYSICIAN PROFILE TO CERTAIN OTHER HEALTH CARE PROVIDERS.*****SUMMARY:**

Under current law the Department of Health (DPH), after consulting with the Connecticut Medical Examining Board, and the Connecticut State Medical Society, must collect certain information to create an individual public profile on each physician licensed to practice medicine in Connecticut. This bill extends this requirement to dentists, chiropractors, optometrists, podiatrists, naturopaths, dental hygienists, advanced practice registered nurses, and physical therapists. As it must currently do for physicians, it requires DPH to consult with the appropriate state board and makes other conforming changes.

EFFECTIVE DATE: October 1, 2008

INFORMATION INCLUDED IN THE PUBLIC PROFILE***Education and Practice Information***

The profiles must contain information about the health care provider's medical education and practice including

1. professional school names and graduation dates;
2. the site, training, discipline, and dates of postgraduate medical education;
3. practice specialty;
4. the address of his or her primary practice location;
5. the languages, other than English, spoken at the practice;

6. the hospitals and nursing homes where he or she has privileges;
7. a list of publications in peer-reviewed literature;
8. a list of professional services, activities, and awards;
9. an indication as to whether he or she is actively involved in patient care; and
10. the name of the provider's professional liability insurance carrier.

A provider can choose to have his or her profile omit information about his or her publications, professional services, activities, and awards. DPH must inform providers of this option.

Disciplinary Actions

The profile must indicate any disciplinary actions DPH has taken against the health care provider or any by the appropriate state board or any professional licensing or disciplinary body in another jurisdiction. It must also include any hospital disciplinary actions taken against him or her in the past 10 years resulting in (1) termination or revocation of privileges for a professional disciplinary reason; (2) resignation from, or non-renewal of, professional staff membership; or (3) restriction of privileges in lieu of or in settling a pending disciplinary case related to professional competence.

Criminal Convictions

The profile must contain a description of criminal convictions for felonies within the last 10 years. Conviction of a felony means the health care provider pled guilty, was found guilty by a court, or was convicted by a plea of no contest.

Medical Malpractice Claims

The profile must contain, to the extent available, all professional malpractice court judgments, arbitration awards, or settlements against the health care provider where payment was made during the last 10 years.

Duty to Update Information

A provider must notify DPH of any changes in the information other than publications and professional services, activities, and awards within 60 days of the change.

Prohibited Disclosure

DPH may not disclose to the public pending malpractice claims or actual amounts paid by or for the provider because of a judgment, award, or settlement.

Advance Copy to Providers

DPH must give the provider a copy of his profile before it is released to the public. Profile amendments or modifications not given by the health care provider or produced by DPH must be given to the provider to review before release. The provider can challenge the accuracy of any information in the profile and provide a written statement supporting the challenge.

Internet

DPH must have an Internet web site so the public can get the profiles.

Other Disclosure Laws

The law specifies that other state laws that would limit, prohibit, or penalize the disclosure of provider information do not apply to the provider profiles.

False Statements

All information from the provider is subject to penalties for false statement in the second degree, a Class A misdemeanor, which subjects the provider to imprisonment of up to one year, a fine of up to \$2,000, or both.

Action Against a Provider's License

The law allows the appropriate board or licensing authority to restrict, suspend, revoke, or take other appropriate action against a provider's license for failure to provide DPH with information needed

to complete a profile.

BACKGROUND

Related Legislation

SB 183, which the Judiciary Committee reported on March 12 makes the same changes.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/11/2008)