



# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH

### **TESTIMONY PRESENTED BEFORE THE PUBLIC HEALTH COMMITTEE March 22, 2011**

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#### **House Bill 6618 - An Act Concerning Various Revisions to Public Health Related Statutes**

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The Department of Public Health supports House Bill 6618. The Department would like to thank the Public Health Committee for raising the Department's bill.

Attached you will find a detailed explanation of each section included in this bill. Highlights include changes to practitioner disciplinary statutes, day care and youth camp licensing, and electronic laboratory reporting by laboratories. We have subject matter experts who can answer any questions you might have for each section.

The Department respectfully requests the following amendments to this bill. Attached you will find a list of suggested language for the amendment.

The Department supports the changes made in section 27 to correct omissions in the original statutory language, however, no deadline was given for filing a Certificate of Need application and podiatrists were inadvertently excluded from the outpatient surgical facility exception to the CON requirement for transfer or change of ownership or control by specified licensed physicians. Attached language includes technical changes for filing a Certificate of Need application and suggests adding a new section to make a technical change to subsection (c) of section 19a-493(b) as the current language inexplicably excludes podiatrists, who are licensed under Chapter 375 rather than section 20-13. The Department believes that this was an oversight and that there was no intent to exclude podiatrists from the benefit of this section.

The Department also respectfully requests the Committee include additional provisions within this bill concerning licensed practical nurses and the disciplinary statutes for several health professions, as follows:

- The Department has drafted language to clarify that under the direction of a registered nurse, a licensed practical nurse may carry out the orders of a physician assistant, podiatrist or optometrist. Similar language was passed during the 2010 session of the General Assembly for registered nurses and should have been extended to licensed practical nurses.
- The Department also requests the Committee add a new section to include technical changes to Subsection (b) of section 19a-178a which was revised in Public Act 10-118.

The Department also requests the Committee add a new section to include technical changes to Subsection (b) of section 19a-178a which was revised in section 54 of Public Act 10-118.

Thank you for your consideration of the Department's views on this bill. We are happy to answer any questions you may have.

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Section 1. Section 19a-17 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) Each board or commission established under chapters 369 to 376, inclusive, 378 to 381, inclusive, and 383 to 388, inclusive, and the Department of Public Health with respect to professions under its jurisdiction that have no board or commission may take any of the following actions, singly or in combination, based on conduct that occurred prior or subsequent to the issuance of a permit or a license upon finding the existence of good cause:

- (1) Revoke a practitioner's license or permit;
  - (2) Suspend a practitioner's license or permit;
  - (3) Censure a practitioner or permittee;
  - (4) Issue a letter of reprimand to a practitioner or permittee;
  - (5) Place a practitioner or permittee on probationary status and require the practitioner or permittee to:
    - (A) Report regularly to such board, commission or department upon the matters which are the basis of probation;
    - (B) Limit practice to those areas prescribed by such board, commission or department;
    - (C) Continue or renew professional education until a satisfactory degree of skill has been attained in those areas which are the basis for the probation;
  - (6) Assess a civil penalty of up to twenty-five thousand dollars;
  - (7) In those cases involving persons or entities licensed or certified pursuant to sections 20-341d, 20-435, 20-436, 20-437, 20-438, 20-475 and 20-476, require that restitution be made to an injured property owner; or
  - (8) Summarily take any action specified in this subsection against a practitioner's license or permit upon receipt of proof that such practitioner has been:
    - (A) Found guilty or convicted as a result of an act which constitutes a felony under (i) the laws of this state, (ii) federal law, or (iii) the laws of another jurisdiction and which, if committed within this state, would have constituted a felony under the laws of this state; or
    - (B) Subject to disciplinary action similar to that specified in this subsection by a duly authorized professional agency of any state, the District of Columbia, a United States possession or territory or a foreign jurisdiction. The applicable board or commission, or the department shall promptly notify the practitioner or permittee that his license or permit has been summarily acted upon pursuant to this subsection and shall institute formal proceedings for revocation within ninety days after such notification. [Such board or commission or the department may rely upon the findings and conclusions made by a duly authorized professional disciplinary agency of any state, the District of Columbia, a United States possession or territory or foreign jurisdiction and shall not permit a collateral attack on the findings and conclusions of such agency.]
- (b) Such board or commission or the department may withdraw the probation if it finds that the circumstances that required action have been remedied.

(c) Such board or commission or the department where appropriate may summarily suspend a practitioner's license or permit in advance of a final adjudication or during the appeals process if such board or commission or the department finds that a practitioner or permittee represents a clear and immediate danger to the public health and safety if he is allowed to continue to practice.

(d) In addition to the authority provided to the Department of Public Health in subsection (a) of this section, the department may resolve any disciplinary action with respect to a practitioner's license or permit in any profession by voluntary surrender or agreement not to renew or reinstate.

(e) Such board or commission or the department may reinstate a license that has been suspended or revoked if, after a hearing, such board or commission or the department is satisfied that the practitioner or permittee is able to practice with reasonable skill and safety to patients, customers or the public in general. As a condition of reinstatement, the board or commission or the department may impose disciplinary or corrective measures authorized under this section.

(f) Such board or commission or the department may take disciplinary action against a practitioner's license or permit as a result of the practitioner having been subject to disciplinary action similar to an action specified in subsection (a) by a duly authorized professional disciplinary agency of any state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction. Such board or commission or the department may rely upon the findings and conclusions made by said duly authorized professional disciplinary agency of any state, the District of Columbia, a United States possession or territory or foreign jurisdiction and shall not permit a collateral attack on those findings and conclusions.

**[(f)] (g)** As used in this section, the term "license" shall be deemed to include the following authorizations relative to the practice of any profession listed in subsection (a) of this section: (1) Licensure by the Department of Public Health; (2) certification by the Department of Public Health; and (3) certification by a national certification body.

**[(g)] (h)** As used in this chapter, the term "permit" includes any authorization issued by the department to allow the practice, limited or otherwise, of a profession which would otherwise require a license; and the term "permittee" means any person who practices pursuant to a permit.

Sec. 3. Subsection (a) of section 19a-12a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) As used in this section ~~[, [and]]~~ section 19a-12b [and section 4 of this act]:

(1) "Chemical dependency" means abusive or excessive use of drugs, including alcohol, narcotics or chemicals, that results in physical or psychological dependence;

(2) "Department" means the Department of Public Health;

(3) "Health care professionals" includes any person licensed or who holds a permit pursuant to chapter 368v, 370, 372, 373, 375, 375a, 376, 376a, 376b, 376c, 377, 378, 379, 379a, 380, 381, 381a, 383, 383a, 383b, 383c, 384, 384a, 384b, 384c, 384d, 385, 398 or 399 [and any institution licensed pursuant to chapter 368v];

(4) "Medical review committee" means any committee that reviews and monitors participation by health care professionals in the assistance program, including a medical review committee described in section 19a-17b; and

(5) "Assistance program" means the program established pursuant to subsection (b) of this section to provide education, prevention, intervention, referral assistance, rehabilitation or support services to health care professionals who have a chemical dependency, emotional or behavioral disorder or physical or mental illness.

Sec. 4. Subsection (j) of section 19a-12a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(j) (1) Any [physician, hospital] health care professional, institution licensed in accordance with chapter 368v or state or local professional society or organization of health care professionals that refers a [physician] health care professional for intervention to the assistance program shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-13d, subsection (a) of section 20-12d and Section 5 of this act, with respect to a physician's inability to practice medicine with reasonable skill or safety due to chemical dependency, emotional or behavioral disorder or physical or mental illness.

(2) Any physician, physician assistant, hospital or state or local professional society or organization of health care professionals that refers a physician assistant for intervention to the assistance program shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-12e, with respect to a physician assistant's inability to practice with reasonable skill or safety due to chemical dependency, emotional or behavioral disorder or physical or mental illness.

Sec. 5. (NEW) (*Effective October 1, 2011*) [A] Any institution licensed in accordance with chapter 368v or any health care professional as defined in Section 19a-12a, as amended by this act, with information which appears to show that another health care professional is or may be unable to practice with reasonable skill and safety due to (1) physical illness or loss of motor skills, including, but not limited to, deterioration through the aging process, (2) emotional disorder or mental illness, or (3) chemical dependency shall, not later than thirty days after obtaining such information, file a petition with the Department of Public Health. Such petition shall be filed on forms supplied by the department, shall be signed and sworn to, and shall set forth in detail the matters complained of.

**New Sections to be added:**

**Subsection (c) of Section 20-87a of the general statutes is repealed and the following in substituted in lieu thereof:**

The practice of nursing by a licensed practical nurse is defined as the performing of selected tasks and sharing of responsibility under the direction of a registered nurse or an advanced practice registered nurse and within the framework of supportive and restorative care, health counseling and teaching, case finding and referral, collaborating in the implementation of the total health care regimen and executing the medical regimen under the direction of a licensed physician, physician assistant, podiatrist, optometrist or dentist.

**Add a new section making a technical fix to language in section 54 of public act 10-118:**

Subsection (b) of section 19a-178a of the 2011 supplement to the general statutes is repealed and the following is substituted in lieu thereof:

(b) The advisory board shall consist of forty-one members appointed in accordance with the provisions of this subsection and shall include the Commissioner of Public Health and the department's emergency medical services medical director, or their designees[, and each of the regional medical service coordinators appointed pursuant to section 57 of this act.] The Governor shall appoint the following members: One person from each of the regional emergency medical services councils; one person from the Connecticut Association of Directors of Health; three persons from the Connecticut College of Emergency Physicians; one person from the Connecticut Committee on Trauma of the American College of Surgeons; one person from the Connecticut Medical Advisory Committee; one person from the Emergency Department Nurses Association; one person from the Connecticut Association of Emergency Medical Services Instructors; one person from the Connecticut Hospital Association; two persons representing commercial ambulance providers; one person from the Connecticut Firefighters Association; one person from the Connecticut Fire Chiefs Association; one person from the Connecticut Chiefs of Police Association; one person from the Connecticut State Police; and one person from the Connecticut

Commission on Fire Prevention and Control. An additional eighteen members shall be appointed as follows: Three by the president pro tempore of the Senate; three by the majority leader of the Senate; four by the minority leader of the Senate; three by the speaker of the House of Representatives; two by the majority leader of the House of Representatives and three by the minority leader of the House of Representatives. The appointees shall include a person with experience in municipal ambulance services; a person with experience in for-profit ambulance services; three persons with experience in volunteer ambulance services; a paramedic; an emergency medical technician; an advanced emergency medical technician; three consumers and four persons from state-wide organizations with interests in emergency medical services as well as any other areas of expertise that may be deemed necessary for the proper functioning of the advisory board.

**The Department also proposes the following language change be made to Section 28 of the Bill.**

Subsection (b) of section 19a-639a of the general statutes allows for the filing of a CON application no later than 20 days after the applicant publishes notice for three consecutive days in a newspaper of substantial circulation in the area of the proposal. The statute does not, however, provide a deadline for filing an application. Accordingly, it is possible that an applicant could wait up to a year or more to file a CON application, thereby rendering the initial newspaper notice of the application ineffective. To provide a definite time period within which an application must be filed following the newspaper notice, we propose the following change to the language in subsection (b) of Section 19a-639a:

(b) Not later than twenty days prior to the date that the applicant submits the certificate of need application to the office, the applicant shall publish notice that an application is to be submitted to the office in a newspaper having a substantial circulation in the area where the project is to be located. Such notice shall be published for not less than three consecutive days and shall contain a brief description of the nature of the project and the street address where the project is to be located. The certificate of need application shall be filed no more than ninety days after the applicant has published notice in accordance with the above. The office shall not accept the applicant's certificate of need application for filing unless the application is accompanied by the application fee prescribed in subsection (a) of this section and proof of compliance with the publication requirements prescribed in this subsection.

**New section:**

Subsection (c) of section 19a-493 (b) is repealed and the following is substituted in lieu thereof:

(c) Notwithstanding the provisions of this section, no outpatient surgical facility shall be required to comply with section 19a-631, 19a-632, 19a-644, 19a-645, 19a-646, 19a-649, 19a-654 to 19a-660, inclusive, 19a-662, 19a-664 to 19a-666, inclusive, 19a-669 to 19a-670a, inclusive, 19a-671, 19a-671a, 19a-672 to 19a-676, inclusive, 19a-678, or 19a-681 to 19a-683, inclusive. Each outpatient surgical facility shall continue to be subject to the obligations and requirements applicable to such facility, including, but not limited to, any applicable provision of this chapter and those provisions of chapter 368z not specified in this subsection, except that a request for permission to undertake a transfer or change of ownership or control shall not be required pursuant to subsection (a) of section 19a-638 if the Office of Health Care Access division of the Department of Public Health determines that the following conditions are satisfied: (1) Prior to any such transfer or change of ownership or control, the outpatient surgical facility shall be owned and controlled exclusively by persons licensed pursuant to section 20-13 and chapter 375, either directly or through a limited liability company, formed pursuant to chapter 613, a corporation, formed pursuant to chapters 601 and 602, or a limited liability partnership, formed pursuant to chapter 614, that is exclusively owned by persons licensed pursuant to section 20-13 and chapter 375, or is under the interim control of an estate executor or conservator pending transfer of an ownership interest or control to a person licensed under section 20-13 and chapter 375, and (2) after any such transfer or change of ownership or control, persons licensed pursuant to section 20-13 and chapter 375, a limited liability company, formed pursuant to chapter 613, a corporation, formed pursuant to chapters 601 and 602, or a limited liability partnership, formed pursuant to chapter 614, that is exclusively owned by persons licensed pursuant to section 20-13 and chapter 375, shall own and control no less than a sixty per cent interest in the outpatient surgical facility.

Section 1 amends the disciplinary statutes for health practitioners to allow the Department and boards/commissions to deem as true the findings of fact or conclusions of law embodied in the final, written decisions of licensure disciplinary authorities of other states, thereby reducing the re-litigation of issues in Connecticut that were already litigated and decided in another jurisdiction. The Department respectfully requests the opportunity to submit amended language to clarify that this provision should apply in any disciplinary case, not only cases being brought for summary suspension.

Sections 2,29,and 31 are technical changes.

Sections 3 through 5 amend the health professional assistance program statutes to include nursing home administrators in the list of professions that may participate in a confidential program of rehabilitation. These sections also establish mandatory reporting requirements for health professionals who are or may be unable to practice with reasonable skill and safety. Currently, mandatory reporting is only required for physicians and physician assistants. The Department respectfully requests the opportunity to submit amended language to clarify that mandatory reporting obligations can be met through a referral to the health professional assistance program.

Section 6 allows the Department to enter into negotiated agreements to restrict, suspend or otherwise limit a license or permit during the pendency of an investigation without having to wait for board/commission approval.

Sections 7 and 8 update the statute related to the Report of Foundling

Sections 9 and 10 Will require towns to report to the Department of Public Health, a newly elected or appointed vital records registrar, as well as names of persons who have been appointed as assistant registrars.

Section 11 revises the statute regarding access to birth certificates

Sections 12 and 13. Expedited partner therapy (EPT) is a treatment option for persons diagnosed with chlamydia and gonorrhea in which the practitioner either dispenses the medication to the patient or provides a prescription to be given to their sexual partners without the partners being seen by a healthcare provider. EPT has been shown to increase treatment rates and decrease reinfection rates for these sexually transmitted diseases. Given the high number of these infections, there are not enough resources for the current traditional partner treatment strategies to adequately address this problem in Connecticut. EPT would be an additional strategy available to providers that could get more partners treated and prevent additional infections. Currently, 27 states and one large metropolitan area allow the practice of EPT.

Section 14 Clarifies the authority, and updates program and evaluation requirements of syringe exchange programs in Connecticut.

Section 15 authorizes the Department, in consultation with the Board of Chiropractic Examiners, to periodically designate certain topics that must be included in mandatory continuing education coursework.

Section 16 Establishes a Waiver Authorization by the Commissioner of Public Health under the provisions of Section 10-204a(a) "Required Immunizations mandates" in the event of widespread unavailability of certain vaccines as a result of a national vaccine shortage. The waiver is needed to prevent children from being excluded from enrollment in day care, school and colleges

Section 17 of this bill clarifies that child day care services provided by relatives, regardless of the formality, is exempt from licensure. Also, this bill clarifies that care provided on a drop-in basis in retail establishments is applicable provided the parents remain not only on the premises but in the same store

as the child. These changes are for clarification purposes and are consistent with the Department's current implementation.

Section 18 of this bill seeks to increase the maximum civil penalty that may be imposed on those persons who operate a youth camp without the required license for a first and subsequent offense. Currently, the law limits the penalty that may be imposed to no more than five hundred dollars for the first offense and no more than seven hundred dollars for a second or subsequent offense. This penalty is notably less than the eight hundred and fifteen dollar application fee currently required to apply for a youth camp license. This differential occurred when the application fee was substantially increased by Public Act 09-03, while the allowance for penalties did not increase. Increasing the maximum penalty to one thousand dollars will make it more in line with the application fee and will provide a greater disincentive to individuals considering operating illegally.

Sections 19 and 20 of this bill provide clarification that a fee must accompany an initial licensure or renewal application for a child day care license, such fee is considered part of the application and a license cannot be renewed without the fee. Currently, individuals seeking to act as an assistant or substitute in a family day care home must first obtain the approval by the Department of Public Health. Approval is granted after an application has been submitted and it has been verified that all requirements have been met. Section 19 of this bill seeks to require a fee of twenty dollars to accompany the application for family day care staff approval. This fee will help cover the cost for the processing of the approval application and will provide consistency with other approvals and licenses granted by the Department of Public Health.

Sections 23-26 In Connecticut, syndromic surveillance systems provided critical information that was used to track the influenza pandemic in 2009 and guide public health control measures. We learned from the pandemic that to provide a more complete picture of the impact of epidemics and other public health emergencies, we need to expand and improve the Hospital Admissions Syndromic Surveillance System (HASS) and the Hospital Emergency Department Syndromic Surveillance (HEDSS) system by mandating electronic reporting of patient abstract data by hospitals for public health syndromic surveillance.

Section 24 Electronic Laboratory Reporting (ELR) is a secure, automated mechanism for the reporting of laboratory and patient information by hospitals and commercial laboratories. DPH is nearing completion of a new information technology system for public health surveillance that will include the ability to accept electronic laboratory reports. ELR facilitates accurate and timely automated entry of laboratory and patient information by hospitals and commercial laboratories into this new system. Therefore, sudden changes in disease trends may be more quickly identified than could otherwise occur with manual data entry of paper laboratory reports received by mail. Legally mandating electronic laboratory reporting by laboratories will assure the continuity of the laboratory reporting of diseases of public health importance. In 2009, 8 states/jurisdictions have legislation specifically requiring or regulating ELR for all or most notifiable disease conditions, including New York City, New York State and Massachusetts.

Sections 27 and 28 Makes a technical changes to the Office of Health Care Statute

Section 31 the licensing authority for Maternity Homes was transferred to the Department of Children and Families in 2009 by Public Act 09-03. Consequently maternity home licensing fees are being deleted from Connecticut General Statutes Section 19a-491.

Sections 33-36 are report repealers.