

The Connecticut General Assembly

Legislative Commissioners' Office

Edwin J. Maley, Jr.
Commissioner
William A. Hamzy
Commissioner

Larry G. J. Shapiro
Director



Legislative Office Building
Suite 5500
Hartford, Connecticut
06106-1591
(860) 240-8410
fax (860) 240-8414
e-mail: lco@cga.ct.gov

Memorandum

To: Legislative Regulation Review Committee
From: Legislative Commissioners' Office
Committee Meeting Date: October 23, 2012

Regulation No:	2012-42
Agency:	Department of Social Services
Subject Matter:	Physicians Assistants
Statutory Authority: (copy attached)	17b-262

	Yes or No
Mandatory	N
Federal Requirement	N
Permissive	Y

For the Committee's Information:

The Commissioner of Social Services' affidavit regarding the proposed regulation states that the agency received one set of written comments from the public concerning the proposed regulation and indicates that the agency's response to such comments is attached. However, neither the set of comments nor the agency's response was included in the submittal.

Substantive Concerns:

1. On page 1, in section 17b-262-338(4), certain professional titles are listed and the new language indicates each professional title is defined and licensed pursuant to Title 20 of the general statutes. However, some of the professional titles listed in the regulation are not defined or licensed in Title 20. For example: "Psychologist" is not defined in Title 20, although psychologists are licensed pursuant to Title 20; "Social worker" is neither defined nor licensed in Title 20; "Nurse practitioners" is neither defined nor licensed in Title 20, but is defined within the regulation (see 17b-262-338(3)); "Professional counselors" is not defined in Title 20, rather "professional counseling" is defined in Title 20; "Marital and family therapists" is not defined in Title 20, although marital and family therapists are defined pursuant to Title 20; and "Speech therapist" is not specifically defined in Title 20, although it is included in the definition of "licensed speech and language pathologist".

2. On page 8, in section 17b-262-344(a), it is unclear whether "or as otherwise designated by the department and published on its website or by other means accessible to providers" is intended to modify the requirement for prior authorization or the requirement to use forms and manners specified by the department.

3. On page 14, in section 17b-262-348(q), the new language states, in relevant part, "If the department determines... pursuant to section 17-134d-80 of the Regulations of Connecticut State Agencies that a general hospital admission was not medically necessary...". The term "medically necessary" is defined in the instant regulation, in section 17b-262-338(27), to be interchangeable with the term "medical necessity" and to have the same meaning as such terms have in section 17b-259b of the general statutes. However, section 17-134d-80 of the Regulations of Connecticut State Agencies, upon which the instant section relies, has a different definition of the term "medical necessity" than section 17b-259b of the general statutes contains. Accordingly, it is unclear which definition of "medical necessity" will be used in section 17b-262-348(q).

Technical Corrections:

1. On page 1, in section 17b-262-337, the comma after "inclusive" should not be underlined, for consistency with the existing regulation.

2. On page 1, in section 17b-262-338, ", inclusive, of the Regulations of Connecticut State Agencies:" should not be underlined and "[.]" should be deleted for consistency with the existing regulation.

3. On page 1, in section 17b-262-338(3), the terms "Advanced practice registered nurse" and "APRN" are not used elsewhere in the applicable sections and should be deleted for accuracy.

4. On page 1, in section 17b-262-338(4), "nurse midwives" should be "[nurse_midwives] nurse-midwives" for accuracy.

5. On page 3, in section 17b-262-338(22), the term "International Classification of Diseases" is not used anywhere in the regulation and should be deleted as it is unnecessary.
6. On page 3, in section 17b-262-338(27), the semi-colon before the closing bracket should be deleted and the final semi-colon should not be underlined for proper form.
7. On page 4, in section 17b-262-338(29), the phrase "has the same meaning as provided" should be underlined for proper form.
8. On page 4, in section 17b-262-338(31), the opening parenthesis and "Out-of-state" should be underlined for proper form.
9. On page 4, in section 17b-262-338(34), "who is" should be underlined for proper form.
10. On page 4, in section 17b-262-338(36), "[or]" should be added after the semi-colon in (A) for consistency with the text of the existing regulation, the semi-colon and "or" in (B) should be underlined for proper form and the semi-colon in (C) should not be underlined for consistency with the text of the existing regulation.
11. On page 5, in section 17b-262-338(41), "(41)", "personal" and "the administrative and clinical responsibility personally assumed by the physician for the AHP's services within the AHP's scope of practice" should be underlined for proper form.
12. On page 5, in section 17b-262-338(43), the underlining for "43" should extend to both parentheses for proper form.
13. On page 5, in section 17b-262-340, "[a provider's] physicians' should be "[provider's] a physician's" for proper form.
14. On page 5, in section 17b-262-340, "clients who have a need for such services and which are medically necessary." should be "clients who have a need for such services, provided such services are medically necessary." for clarity and proper form.
15. On page 5, in section 17b-262-341, the following changes should be made for consistency with the text of the existing regulation:
 1. In (1), "Only" should be "only";
 2. In (2), "ICF/MR" should be "[icf/mr] ICF/MR"; and
 3. In (3), "(CLIA)" should be inserted after "Amendments".
16. On page 7, in section 17b-262-342, "or related goods or services" should be "goods or services or goods or services related to the following" for clarity.
17. On page 8, in section 17b-262-344(a)(7), the last opening bracket should not be underlined for proper form.

18. On page 9, in section 17b-262-344(g), "from the department" should be underlined for proper form.
19. On page 9, in section 17b-262-344(h), both commas in the second sentence should be underlined for proper form.
20. On page 9, in section 17b-262-345(f), "When [services are provided by] more" should be "[when services are provided by] When more" for consistency with the text of the existing regulation and proper form.
21. On page 10, in section 17b-262-346(c), in the first line, "Regulations of Connecticut State Agencies" should be "[regulations of connecticut state agencies] Regulations of Connecticut State Agencies" and "Medicaid" should be "[medicaid] Medicaid" for consistency with the text of the existing regulation and proper form.
22. On page 10, in section 17b-262-346(d), the underlined comma after "surgery" should be deleted since the existing language surrounding the comma is being deleted.
23. On page 11, in section 17b-262-348(d), "[physician" should be "[a physician consultant" for consistency with the text of the existing regulation.
24. On pages 11 through 14, in section 17b-262-348, the captions for subsections (i) through (r) should be bold for consistency with the text of the existing regulation.
25. On page 12, in section 17b-262-348(i)(1), in the second sentence, "The" should be "[the] The" for consistency with the text of the existing regulation and proper form.
26. On page 15, in section 17b-262-348(r)(2)(A), "[through CFR]" should be "[through cfr]" for consistency with the text of the existing regulation.
27. On page 15, in section 17b-262-348(r)(4), "The" should be "[the] The" for consistency with the text of the existing regulation and proper form.

Recommendation:

<p>Approval in whole with technical corrections with deletions with substitute pages Disapproval in whole or in part X Rejection without prejudice</p>

Reviewed by: Amy LaChance / Bradford M. Towson

Date: October 5, 2012

Sec. 17b-262. (Formerly Sec. 17-134d). Regulations. Admissions to nursing home facilities. The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program. Such regulations shall include provisions requiring the Department of Social Services (1) to monitor admissions to nursing home facilities, as defined in section 19a-521, and (2) to prohibit the admission by such facilities of persons with primary psychiatric diagnoses if such admission would jeopardize federal reimbursements.