Connecticut Department of Public Health

Testimony Presented Before the Public Health Committee

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House Bill# 6987 An Act Concerning Various Revisions to the Public Health Statutes.

The Department of Public Health (DPH) supports House Bill 6987 and offers the following information regarding the Department's bill:

Section 1 revises section 19a-491 of the Connecticut General Statutes (C.G.S.), which was amended in 2013 to allow the DPH commissioner to charge a fee for technical assistance provided to a health care facility undertaking a renovation or building alteration project. The fee was originally proposed by the DPH. The 2013 law called for the fee to be based upon the value of the total project costs. However, it was never the department's intent to apply the fee to the value of the non-construction components of a project (e.g., furnishings, appliances, lighting fixtures), as these items are not relevant to the technical review process. Construction costs include, but are not limited to: architectural designs, excavation, foundations with concrete, structural development, plumbing, heating, ventilation, air conditioning, natural gas and electric utilities, and applicable permitting costs. This proposed change renders statute consistent with the agency's original intent as well as current practice.

Section 2 revises section 20-12d C.G.S. to correct an inadvertent language change made in public act 14-231. The Act erroneously removed a requirement that physician assistant (PA) orders contain the signature of the PA. Section 2 reinstates this requirement.

Section 3: Public Act 14-98 transferred administration of the CT Stem Cell Program from the DPH to Connecticut Innovations, Inc. The only role that DPH now plays in the administration of the program is that the Commissioner of Public Health remains a member of the Stem Cell Research Advisory Committee (renamed the Regenerative Medicine Research Advisory Committee). This section repeals a reporting mandate concerning research involving embryonic stem cells. Currently, stem cell researchers are required to file a verification form with DPH about the donation and derivation of stem cells. DPH is charged with the enforcement of this provision. Oversight and enforcement of acceptable use of donated stem cells is already performed by institutional embryonic stem cell research oversight (ESCRO) bodies within research organizations, and by the Regenerative Medicine Research Advisory Committee.

Section 4 addresses the numerous requests that DPH receives for no-cost nursing permits, which primarily come from school nurses who intend to be on a field trip to Connecticut or otherwise passing through the state. This section would allow any qualified registered nurse or any qualified licensed

practical nurse from another state to continue providing nursing care for their students, or a patient they care for who is visiting Connecticut, for up to 72 hours without the burden of obtaining a temporary permit from DPH.

Section 5 strengthens DPH's authority to regulate unlicensed massage therapists or licensed massage therapists that may have falsified documents to achieve licensure. The additional language will clarify that DPH has the authority to take disciplinary action against a massage therapist who falsifies his or her application for licensure.

Section 6 allows for an expedited process for emergency medical service (EMS) organizations to apply for approval to change the address of a principal or branch location within their current primary service area.

Section 7 adds all levels of licensed and certified EMS providers to those care providers who are mandated to report elder abuse, neglect, exploitation, or abandonment.

Section 8 changes, from July 5th to the last day of August of each year, the due date by which EMS organizations must file statements regarding their call volumes for rate review. This revision allows these entities to have more flexibility in establishing and determining their annual budgets. This change has been requested by multiple EMS organizations.

Sections 9 and 10 clarify statute (created within PA 14-231) concerning the process that authorized emergency medical services (EMS) vehicles must follow when obtaining a vehicle safety inspection, a DPH licensure inspection (minimum standards for vehicle design and equipment), and Department of Motor Vehicles registration. Section 9 adds a new definition to section 19a-175 C.G.S. of "authorized emergency services vehicle" to include ambulance, invalid coach and AEMT- and paramedic- intercept vehicles. Section 10 includes language that allows the Department of Motor Vehicle to accept notice of a safety inspection by an authorized dealer/local entity along with now including the DPH inspection for minimum equipment and vehicle design compliance before registering a vehicle.

Section 11 clarifies that patient-identifiable data may be released by the Office of Health Care Access (OHCA) for medical and research purposes. As currently written, subsection (d) of section 19a-654 C.G.S. allows OHCA to release patient-identifiable data, in part, as provided for in section 19a-25 C.G.S. and regulations adopted pursuant to section 19a-25 C.G.S.. However, section 19a-25 C.G.S. restricts the use of the data to medical or scientific research. The proposed change will clarify statute by providing the specific regulatory citation under which patient-identifiable information may be released by OHCA.

Section 12 renders statute concerning the authority of an athletic trainer to clear a student athlete for participation in team activities, following a suspected or actual concussion, consistent with the statutory definition of athletic training by stating that he or she must act under the consent and direction of a licensed health care provider.

Sections 13 and 14 revises the clinical laboratory statutes to provide the Commissioner authority to conduct a formal investigation and take necessary actions such as issuing subpoenas, and administering oaths associated with such investigation. Revising the statutes will provide consistency of procedures and enforcement when significant non-compliance with state laws and regulations is identified in a

clinical laboratory. The language in this bill mirrors the Department's authority under section 19a-498 (b) C.G.S. for healthcare facilities licensed pursuant to section 19a-490 C.G.S. (which doesn't include clinical laboratories).

Sections 15 allows the Medical Examining Board and the DPH to take reciprocal action against a practitioner's license based on voluntary surrender of a license in another state. This language will also add that disciplinary action taken by a federal government agency can be taken into consideration in state licensure decisions.

Section 16 clarifies that a past voluntary surrender of a license, or agreement not to renew or reinstate a license, can be taken into consideration by the DPH when determining if someone is eligible for reinstatement of a license. This language will also add that disciplinary action taken by a federal government agency can be taken into consideration for licensure decisions.

Section 17 clarifies that all healthcare institutions, as defined in section 19a-490, are subject to the same statutory direction regarding unannounced inspection activities.

Section 18 amends the definition of medical spa in CGS 19a-903c C.G.S. to clarify that the law does not apply to hospitals or other licensed healthcare facilities. It also clarifies that the requisite pre-procedure physical assessment of a patient must be done by the clinician in person.

Section 19 inserts "or designee," to allow the Commissioner of Public Health to designate an employee of the Department to represent her on the Commission on Medicolegal Investigations.

Sections 21 and 22 require that acupuncturists obtain malpractice insurance. The DPH respectfully requests that language be added to section 20-206cc C.G.S. to enable the Department to take disciplinary action for "failure to maintain professional liability insurance or other indemnity against liability for professional malpractice as provided in Section 20-206bb." The Department also requests that the amount of malpractice insurance to be required for acupuncturists be specified in statute, as the Department plays no role in determining the amount of malpractice insurance required for any other licensed profession.

Section 23 would add the chairpersons of the Insurance Committee to the Advisory Council on Pediatric Autoimmune Neuropsychiatric Disorder Associated with Streptococcal Infections and Pediatric Acute Neuropsychiatric Syndrome.

The Department respectfully requests that language be added to this bill that would exempt educational institutions that train students to be opticians and operate an optical training store from the requirement to obtain an optical selling permit. Historically there has been just one school in Connecticut providing an education program in ophthalmic science. With the addition of Goodwin College's program a question was posed regarding whether an optical selling permit is required for a school operating a store that provides students with the practical experience required to complete the program. The DPH discovered that Middlesex Community-Technical College has been operating a store for years without benefit of a current optical selling permit. As a result, if Middlesex Community-Technical College was to apply for a permit, it would be noted that they had operated for many years without one. That would result in the imposition of a large civil penalty against a state entity for

unlicensed practice. Section 20-147a C.G.S. exempts students enrolled in an accredited institution of higher education from the requirements for licensure but the statute does not exempt the store operated by the school as part of the educational program from holding the required optical selling permit.

The Department also respectfully requests the addition of language to the Office of Health Care Access' statutes that would define the terms "Access", "Clear Public Need", "Health Care Services", "Health System", "Quality", "Population Served", "Primary Service Area", and "Relocation" and "Termination". As part of its certificate of need (CON) review, OHCA must take into consideration and make written findings concerning various criteria that are specified in section 19a-639 C.G.S.. This section utilizes the terms listed above, but does not define them. Historically, CON applicants have struggled to interpret these terms, which has resulted in the submission of incorrect information within their applications. As a result, OHCA has had to send completeness letters to the applicants so as to gather the correct information. The addition of the aforementioned definitions will provide guidance to applicants, thereby avoiding confusion and unnecessary completeness letters. Additionally, recently OHCA has received numerous inquiries pertaining to its interpretation of "termination" as used in section 19a-639(a)(5) C.G.S. and "primary service area". Providing definitions will reduce the need for health care facilities to file determination requests pursuant to section 19-638(c) C.G.S.. As a result, applicants will be able to initiate the CON application process and obtain a decision from OHCA in a more efficient manner. Finally, the Department is requesting that language be added to this bill to clarify certain ambiguities. As currently written, subsections (b) and (c) of section 19a-639e C.G.S. do not specify that certain health care facilities are required to obtain CON authorization prior to performing any of the actions specified therein. In an effort to eliminate any confusion, the Department is proposing the addition of language identical to that used in subsection (a) of section 19a-639e C.G.S..

Please see the attached document for the Department's language suggestions. Thank you for raising the Department's bill.

Section 20-151 of the general statutes is repealed and the following is substituted in lieu thereof (effective upon passage).

Any licensed optician and any optical department in any establishment, office or store may apply to said department for a registration certificate to sell at retail optical glasses and instruments from given formulas and to make and dispense reproductions of the same, in a shop, store, optical establishment or office owned and managed by a licensed optician as defined in section 20-145 or where the optical department thereof is under the supervision of such a licensed optician, and said registration shall be designated as an optical selling permit. Said department shall grant such permits for a period not exceeding one year, upon the payment of a fee of three hundred fifteen dollars, and upon satisfactory evidence to said department that such optical establishment, office or store is being conducted in accordance with the regulations adopted under this chapter. Such permit shall be conspicuously posted within such optical establishment, office or store. All permits issued under the provisions of this chapter shall expire on September first in each year. **The provisions of this section shall not be construed to require a permit for an ophthalmic science educational program offered by a regionally accredited institution of higher education operating an optical establishment for the purpose of providing practical training to students enrolled in such program.**

Section 19a-630 of the general statutes is repealed and the following is substituted in lieu thereof:

(1) "Access" means the extent to which services are available for individuals who need care and their ability to obtain those services, including but not limited to location of appropriate services, available transportation, hours of operation and cultural factors, including language and cultural appropriateness.

(2) "Affiliate" means a person, entity or organization controlling, controlled by or under common control with another person, entity or organization. Affiliate does not include a medical foundation organized under chapter 594b.

[(2)](3) "Applicant" means any person or health care facility that applies for a certificate of need pursuant to section 19a-639a.

[(3)](4) "Bed capacity" means the total number of inpatient beds in a facility licensed by the Department of Public Health under sections 19a-490 to 19a-503, inclusive.

[(4)](5) "Capital expenditure" means an expenditure that under generally accepted accounting principles consistently applied is not properly chargeable as an expense of operation or maintenance and includes acquisition by purchase, transfer, lease or comparable arrangement, or through donation, if the expenditure would have been considered a capital expenditure had the acquisition been by purchase.

[(5)](6) "Certificate of need" means a certificate issued by the office.

(7) "Clear public need" means the necessity for proposed health care facilities, services, or equipment as determined by deficiencies in available health care services including but not limited to, population demographics, service utilization patterns, epidemiology of diseases and conditions or population access to services.

(8) "Commissioner" means the Commissioner of Public Health.

[(6)](9) "Days" means calendar days.

[(7)](10) "Deputy commissioner" means the deputy commissioner of Public Health who oversees the Office of Health Care Access division of the Department of Public Health.

[(8) "Commissioner" means the Commissioner of Public Health.]

[(9)](11) “Free clinic” means a private, nonprofit community-based organization that provides medical, dental, pharmaceutical or mental health services at reduced cost or no cost to low-income, uninsured and underinsured individuals.
[(10)](12) "Group practice" means eight or more full-time equivalent physicians, legally organized in a partnership, professional corporation, limited liability company formed to render professional services, medical foundation, not-for-profit corporation, faculty practice plan or other similar entity (A) in which each physician who is a member of the group provides substantially the full range of services that the physician routinely provides, including, but not limited to, medical care, consultation, diagnosis or treatment, through the joint use of shared office space, facilities, equipment or personnel; (B) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group practice and amounts so received are treated as receipts of the group; or (C) in which the overhead expenses of, and the income from, the group are distributed in accordance with methods previously determined by members of the group. An entity that otherwise meets the definition of group practice under this section shall be considered a group practice although its shareholders, partners or owners of the group practice include single-physician professional corporations, limited liability companies formed to render professional services or other entities in which beneficial owners are individual physicians.
[(11)](13) “Health care facility” means (A) hospitals licensed by the Department of Public Health under chapter 368v; (B) specialty hospitals; (C) freestanding emergency departments; (D) outpatient surgical facilities, as defined in section 19a-493b and licensed under chapter 368v; (E) a hospital or other facility or institution operated by the state that provides services that are eligible for reimbursement under Title XVIII or XIX of the federal Social Security Act, 42 USC 301, as amended; (F) a central service facility; (G) mental health facilities; (H) substance abuse treatment facilities; and (I) any other facility requiring certificate of need review pursuant to subsection (a) or (c) of section 19a-638. “Health care facility” includes any parent company, subsidiary, affiliate or joint venture, or any combination thereof, of any such facility.
(14) "Health care services" means the furnishing of medical, surgical, diagnostic or therapeutic services that are integral to the clinical management of illness, disease, disability or injury.
[(12)](15) “Nonhospital based” means located at a site other than the main campus of the hospital.
[(13)](16) “Office” means the Office of Health Care Access division within the Department of Public Health.
[(14)](17) “Person” means any individual, partnership, corporation, limited liability company, association, governmental subdivision, agency or public or private organization of any character, but does not include the agency conducting the proceeding.
[(15)](18) "Physician" has the same meaning as provided in section 20-13a.
(19) “Population served” means the residents of the applicant’s primary service area.
(20) “Primary service area” means the area composed of the lowest number of zip codes, listed by town, from which the applicant draws seventy-five percent of its patients;
(21) “Quality” means the degree to which health care services for individuals increase the likelihood of desired health outcomes and are consistent with established professional knowledge, standards and guidelines.
(22) “Relocation” means the movement of a health care facility from its current location to a new location if the payer mix and population served are not substantially changed.
(23) “Termination” means the operational discontinuance or elimination by a health care facility, excluding affiliates, of a health care service. A temporary suspension of health care services lasting six months or less shall not be considered a termination.

[(16)](24) “Transfer of ownership” means a transfer that impacts or changes the governance or controlling body of a health care facility or institution, including, but not limited to, all affiliations, mergers or any sale or transfer of net assets of a health care facility.

Section 19a-639e of the general statutes is repealed and the following is substituted in lieu thereof:
(a) Unless otherwise required to file a certificate of need application pursuant to the provisions of subsection (a) of section 19a-638, any health care facility that proposes to terminate a service that was authorized pursuant to a certificate of need issued under this chapter shall file a modification request with the office not later than sixty days prior to the proposed date of the termination of the service. The office may request additional information from the health care facility as necessary to process the modification request. In addition, the office shall hold a public hearing on any request from a health care facility to terminate a service pursuant to this section if three or more individuals or an individual representing an entity with five or more people submits a request, in writing, that a public hearing be held on the health care facility’s proposal to terminate a service.
(b) Unless otherwise required to file a certificate of need application pursuant to the provisions of subsection (a) of section 19a-638, [A]any health care facility that proposes to terminate all services offered by such facility, that were authorized pursuant to one or more certificates of need issued under this chapter, shall provide notification to the office not later than sixty days prior to the termination of services and such facility shall surrender its certificate of need not later than thirty days prior to the termination of services.
(c) Unless otherwise required to file a certificate of need application pursuant to the provisions of subsection (a) of section 19a-638, [A]any health care facility that proposes to terminate the operation of a facility or service for which a certificate of need was not obtained shall notify the office not later than sixty days prior to terminating the operation of the facility or service.
(d) The Commissioner of Public Health may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures as regulation, provided the commissioner holds a public hearing prior to implementing the policies and procedures and prints notice of intent to adopt regulations in the Connecticut Law Journal not later than twenty days after the date of implementation. Policies and procedures implemented pursuant to this section shall be valid until the time final regulations are adopted. Final regulations [shall] may be adopted by December 31, [2011]2015.