

Public Health Committee JOINT FAVORABLE REPORT

Bill No.: SB-16

AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS

Title: REGARDING PUBLIC HEALTH.

Vote Date: 3/23/2018

Vote Action: Joint Favorable Substitute

PH Date: 3/16/2018

File No.:

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SPONSORS OF BILL:

Sen. Martin M. Looney, 11th Dist.

Sen. Bob Duff, 25th Dist.

Rep. Joe Aresimowicz, 30th Dist.

Rep. Matthew Ritter, 1st Dist.

REASONS FOR BILL:

To implement the Governor's budget recommendations.

This bill makes various changes to public health-related statutes. Among other things, it:

- (1) requires the Tobacco and Health Trust Fund Board to report its activities to the Appropriations and Public Health committees only following a fiscal year in which the trust fund receives a deposit from the Tobacco Settlement Fund (current law requires them to report annually);
- (2) expands the Department of Public Health's (DPH) Newborn Screening Program to include testing newborns for any disorder recommended on the federal Department of Health and Human Services' (HHS) uniform screening panel, if the Office of Policy Management (OPM) approves it;
- (3) requires DPH to reduce payments to local health departments proportionately if the total amount of these payments in a fiscal year exceeds the appropriated amount;
- (4) makes various changes concerning Whiting Forensic Hospital, including subjecting the hospital to DPH regulation and requiring the hospital's advisory board to develop and set standards related to hospitals clients;
- (5) establishes requirements for (a) the mandatory reporting of suspected abuse of patients receiving services from Department of Mental Health and Addiction Services

- (DMHAS)-operated behavioral health facilities and (b) DMHAS investigations of these abuse allegations; and
- (6) makes various changes to effectuate the establishment of the Office of Health Strategy (OHS) within DPH for administrative purposes, including transferring administration of the Office of Health Care Access (OHCA) (including the Certificate of Need (CON) program) from DPH to OHS.

Under the bill, DPH retains decision making authority over pending CON applications that are completed before the bill takes effect. Any further action required after DPH issues its final decision on these applications will be decided by OHS.

RESPONSE FROM ADMINISTRATION/AGENCY:

Benjamin Barnes, Secretary, Office of Policy and Management (OPM): Secretary Barnes offered testimony in support of the bill, which would implement the Governor's budget recommendations for public health programs, and provided an overview.

The proposal in Section 1 eliminates current law that requires the Board of Trustees, of the Tobacco and Health Trust Fund (THTF), to meet twice a year and annually report, in any fiscal year, following one in which no funding is received from the Tobacco Settlement Fund. These changes support budgetary changes outlined in PA 17-2.

Section 2 permits the Department of Public Health Commissioner, with permission from the Secretary of the Office of Policy and Management, to add to Connecticut's Newborn Screening Panel any recommended disorders listed on the federal Recommended Uniform Screening Panel (RUSP), by the U.S Department of Health and Human Services.

Sections 3 and 134 makes adjustment to Local Health Department and Health District Grant programs through a proportional reduction policy in fiscal years when the appropriated funds, for said grants, are insufficient to fulfill the statutory requirements.

Section 135 repeals the requirement for establishing a separate account for Behavioral Analyst Licensing fees and replaces it with funding in the revised budget that will allow the Department of Public Health to implement the new licensure program.

Sections 55-133 & Section 136 make statutory changes for implementation of the Office of Health Strategy which was established by PA 17-2. OPM requests that this be amended to allow a seamless transition of the Certificate of Need Process from the Department of Public Health to the OHS (language is attached in OPM's testimony).

Sections 4-54 and Section 135 put in place provisions to increase staff accountability and improve patient quality of care at facilities such as Whiting Forensic Hospital and other state-operated- behavioral health facilities.

Miriam Delphin-Rittmon, PH.D, Commissioner, Department of Mental Health and Addiction Services: According to the Department of Mental Health and Addiction Services (DMHAS) sections 4-52 of Senate Bill 16 create the Whiting Forensic Hospital which was done through Governor Malloy's Executive Order #63. DMHAS believes that having a hospital that focuses entirely on improving services to the forensic population will improve

care. The bill also outlines requirements that the senior leadership staff be equipped with specific forensic knowledge and experience in order to meet to the needs of the population they serve.

With additional provisions in place, DMHAS believes patients and their loved ones will now have access to the executive management team while also allowing the executive management team to be better informed of the Whiting Hospital operational and staff development needs. In an effort to increase accountability, there is a new provision that requires the Chief Executive Officer at Whiting Hospital, to report directly to the DMHAS Commissioner.

Whiting Hospital will no longer be eligible for Medicaid/Medicare certification, because it will be serving patients that are hospitalized for competency evaluations and those under the jurisdiction of the Psychiatric Review Board. With the elimination of this certification, the Center for Medicaid and Medicare can no longer conduct inspection of the facility and monitor patient care. Therefore, DMHAS supports the provision in SB 16 that proposes external oversight of licensure and licensing by the Department of Public Health, to ensure compliance to all related statutes in the provision of quality care and adherence.

Sections 53 and 54 of this bill establish new mandated reporting protections, similar to those currently extended to children, persons with disabilities and elderly individuals with behavioral health disorders. This will include paid individuals providing direct patient care and licensed health care providers working at DMHAS operated facilities. DMHAS believes that the new mandate will ensure that patient abuse will be reported, fully investigated and if substantiated, result in penalties under the law.

DMHAS offers its support to similar provisions, also outlined in SB 404 and SB 406.

Raul Pino, M.D., M.P.H., Commissioner, Department of Public Health: The Department of Public Health (DPH) supports Senate Bill 16, which will make various revisions to the public health statutes in order to implement the Governor's budget recommendations.

Section 2 permits the Department of Public Health Commissioner, with permission from the Secretary of the Office of Policy and Management, to add to Connecticut's Newborn Screening Program any recommended disorders listed on the federal Recommended Uniform Screening Panel (RUSP) of the U.S Department of Health and Human Services Advisory Committee on Heritable Disorders in Newborns and Children. DPH intends to seek approval to add Pompe disease and Mucopolysaccharidosis, two metabolic disorders, to the Newborn Screening Panel to keep Connecticut's Newborn Screening Program current with the federally designated RUSP disorders. Both diseases are inherited disorders, affecting approximately 1 in 40,000 people in the United States.

Section 3 ensures that payments made by DPH, to eligible local health departments and health districts are reduced proportionately in any fiscal year in which the aggregate amount of the statutorily determined formula grants exceeds the amount appropriated for the payments.

Section 4 amends Section 19a-490 of the general statutes to remove Whiting Forensic Hospital from the exemption under the definition of an "institution" in order to allow the facility

to be inspected and licensed by the DPH. DPH anticipates that these activities can be accomplished within available appropriations.

Sections 5 through 52 make various changes to reflect the separation of Whiting Forensic Hospital from the Connecticut Valley Hospital.

Sections 55-133 & Section 136 make statutory changes for the implementation of the Office of Health Strategy which was established by PA 17-2; including the transfer of the administration of the Office of Health Care Access (OHCA) from the DPH to OHS. DPH believes consolidating the functions of the OHCA to OHS will augment health systems planning, and will inform other key facets of the new office, including health information exchange efforts, health data analysis, and health innovation and strategy initiatives. In an effort to better reflect the role of OHCA's role in the newly established OHS, it is renamed the "Health Systems Planning Unit".

The Department requests an amendment to section 69, to incorporate language in section 19a-612a of the general statutes to ensure the successful transfer of Certificate of Need (CON) functions to OHS.

Victoria Veltri, Executive Director, Office of Health Strategy (OHS): The Office of Health Strategy, which was created under Public Act 17-2, supports the Governor's bill which fully implements OHS by making technical changes to the general statutes, effective July 1, 2018. To date, OHS has taken on the work of the State Innovation Model, the Health Information Technology Officer, and the All-Payer Claims Database. This bill would complete the transfer of the Office of Health Care Access (OHCA) into OHS, as well as update any statutory references to the responsibilities that have already been transitioned.

HB 5290, An Act Concerning the Office of Health Strategy, is also under consideration by the Public Health Committee and contains the same provisions as SB 16 regarding the implementation of the new office. OHS requests that the language of HB 5290, that tightens and clarifies the timing of the transition of certificate of need decision-making authority to OHS, also be included in SB 16 by amending a new subsection (b) to section 69, as outlined in the office's testimony.

OHA also requests that line 1808 of the bill be amended to reference OHA instead of the State's health insurance exchange, regarding the administration of the All-Payer Claims Database. The testimony includes a summary of the bill's provisions in the appendix.

State of Connecticut Judicial Branch, External Affairs Division: The Judicial Branch submitted testimony requesting clarification on section 54(e) of the bill which gives the patient, the patient's legal representative or attorney access to records made, maintained, or kept on file by the Department of Mental Health and Addiction Services regarding the patient, including reports of suspected abuse. As written, only the patient can make application to the court for disclosure of the identity of the person who reported the suspected abuse. The Judicial Branch suggests that the Committee may want to consider allowing the patient's legal representative or attorney to make application to the court for disclosure of the identity of the person who reported the suspected abuse, as well.

NATURE AND SOURCES OF SUPPORT:

Mridu Gulati, MD, MPH, Co-Chair, Task Force to Study Rare Diseases: The CT State Rare Disease Task Force submitted testimony in support of the bill which recommends the implementation and funding for all recommended pediatric disorders on the Recommended Uniform Screening Panel (RUSP) as the minimum standard for the State. RUSP is a list of disorders that are recommended by the Secretary of the Department of Health and Human Services based on evidence that supports the potential net benefit of screening, the ability of state's to screen and the availability of effective treatments. The task force believes CT's current system of needing specific legislation to expand the Newborn Screening Program is inefficient, and up-to-date newborn screening recommendations reduce long term costs to the State.

The task force, in its testimony, defines the two diseases being added to the program and why it is important to include the,. Members believe it is significant to pass this legislation which aligns the State with standardized recommendations regarding newborn screening and strengthens the state's commitment to children's health.

Rosana G. Ferraro, Policy Officer, Universal Health Care Foundation of Connecticut: Rosana Ferraro submitted testimony in support of the bill, specifically citing the sections applying to the Office of Health Strategy (OHS). The Universal Health Care Foundation of CT envisions a state where everyone has access to quality, affordable health care and believes OHS is an important step towards these principles.

Karen Siegel, MPH, Health Policy Fellow, Connecticut Voices for Children: Connecticut Voices for Children submitted testimony in support of the bill and specifically the sections that relate to the Office of Health Strategy (OHS,) which will effectively lead the coordination of health systems and data integration efforts for CT. CT Voices for Children recently reported on the need for coordination of efforts such as the All-Payer Claims Database, the State Innovation Model data dashboard, and other data portals. OHS is well positioned to advance these objectives.

NATURE AND SOURCES OF OPPOSITION:

Judith Sartucci, MSN, RN, Chairman and Charles Brown Jr., MPH, Board Secretary/Treasurer, The Board of Health of the Central Connecticut Health District: Board of Health of the Central Connecticut Health District (CCHD) submitted testimony sharing concerns about several sections of this bill. CCHD opposes the changes to section 1 of this bill because the Connecticut Tobacco and Health Trust Fund (THTF) is the only body in the State that reviews and reports on the status of tobacco product use and makes recommendations which impact it. CCHD also opposes the language in section 3, finding that higher demands and funding cuts have greatly weakened the agency's ability to provide critical public health services to member towns. CCHD supports the charge of the Office of Health Strategy (OHS) and therefore section 55 and subsequent sections that further define the authority of OHS.

Kathy Flaherty, Executive Director, Connecticut Legal Rights Project: Kathy Flaherty submitted testimony in opposition to sections 4-50 of the bill, finding it disappointing that only technical changes are being proposed after the abuse of one of disabled patients at Whiting has come to light. The CT Legal Right Project (CLRP) represents clients in all of the state-operated psychiatric facilities and finds that abuse is not occurring only in Whiting Forensic Hospital. Kathy encourages the Public Health Committee to examine the need for additional resources to support adequate regulatory systems for the facilities that are excluded under this legislation to ensure abuse does not continue to occur.

Kathy believes that the proposed amendment to the Patients' Bill of Rights in Section 31 is an overreaching exception that deprives all patients hospitalized at the maximum security division of Whiting Forensic Hospital of the right to be present when their belongings are searched. She explains that there are many different populations of patients treated at Whiting, and the exception should be carved out in a way similar to phones and visitors and searches should be video recorded so patients and their attorneys have a right to a digital copy.

Susan Israel, MD: Susan Israel submitted testimony in opposition to the bill, citing concern over the amount of health data taken and disclosed by the State to determine health care policies while overriding patient privacy rights. She questioned the State's intentions around disclosure, privacy and opt-outs, believing that patients should have the right to keep some or all information out of medical electronic systems.

**Reported by: Beverley Henry
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Date: 4/11/2018