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## OLR Bill Analysis

sHB 5278 (as amended by House "A")\*

### ***AN ACT PROHIBITING AN UNAUTHORIZED INTIMATE EXAMINATION ON A PATIENT WHO IS UNDER DEEP SEDATION OR ANESTHESIA OR UNCONSCIOUS.***

#### **SUMMARY**

This bill makes various unrelated changes affecting health care professions and institutions. Principally, it does the following:

1. requires hospitals and outpatient surgical facilities, by January 1, 2023, to develop and implement procedures to obtain, on a written or electronic form, a patient's express written consent to an "intimate examination" (i.e., pelvic, prostate, or rectal examination) (§ 1);
2. generally, requires hospitals and outpatient surgical facilities to obtain a patient's separate written consent if a medical student, resident, or fellow performs an intimate examination exclusively for training purposes and not as part of the patient's clinical care or clinical care team (§ 1);
3. allows physicians' continuing education in (a) risk management to address screening for endometriosis and (b) cultural competency to address the effects of systemic racism, explicit and implicit bias, racial disparities, and the experiences of transgender and gender diverse people on patient diagnosis, care, and treatment (§ 2);
4. requires UConn Health Center, in consultation with a research laboratory, to develop a plan to establish an endometriosis data and biorepository program and report to the Public Health Committee by January 1, 2023, on the plan and its implementation timeline (§ 3); and

5. modifies the Department of Public Health (DPH) breast and cervical cancer early detection and treatment referral program by, among other things, requiring breast cancer screening to include tomosynthesis, where possible, and adding human papillomavirus (HPV) tests to the program's services (§ 4).

\*House Amendment "A" replaces the original bill (File 231) with similar provisions on patient consent for intimate examinations. It removes the provisions in the underlying bill (1) specifying required information on patient consent forms and (2) requiring DPH to investigate alleged violations of written consent requirements. It also adds the provisions on (1) physicians' continuing medical education, (2) the endometriosis data and biorepository program, and (3) DPH breast and cervical cancer early detection and treatment referral program.

EFFECTIVE DATE: October 1, 2022, except that the provisions on (1) patient consent for intimate examinations take effect upon passage and (2) the endometriosis data and biorepository program take effect July 1, 2022.

## **§ 1 — PATIENT CONSENT FOR INTIMATE EXAMINATIONS**

The bill requires hospitals and outpatient surgical facilities, by January 1, 2023, to develop and implement procedures to obtain, on a written or electronic form, a patient's express written consent to an intimate examination. They must make copies of these procedures and consent forms available to the DPH commissioner upon request.

It also requires health care providers at hospitals and outpatient surgical facilities to obtain this written consent before performing an intimate examination on a patient who will be unconscious or under deep sedation or general anesthesia. This consent is not required if the examination is within the scope of the patient's planned procedure, surgical procedure, or diagnostic examination for which he or she provided general consent.

Under the bill, if a medical student, resident, or fellow performs an intimate examination on a patient exclusively for training purposes and

not as part of the patient's clinical care or clinical care team, the hospital or outpatient surgical facility must obtain the patient's separate written consent. This consent must detail the medical student's, resident's, or fellow's involvement in the intimate examination.

The bill exempts from the above written patient consent requirements intimate examinations performed in an emergency or urgent care situation for diagnostic or treatment purposes.

Under the bill, "health care providers" are physicians; medical students, residents, and fellows; physician assistants; and advanced practice registered nurses.

## **§ 2 — PHYSICIAN CONTINUING EDUCATION**

The bill allows physicians' continuing education in (1) risk management to address screening for endometriosis and (2) cultural competency to address the effects of systemic racism, explicit and implicit bias, racial disparities, and the experiences of transgender and gender diverse people on patient diagnosis, care and treatment. It applies to license registration periods on or after October 1, 2022.

As part of existing law's continuing education requirements, physicians must complete one contact hour each of risk management and cultural competency training or education (1) during their first license renewal period and (2) at least once every six years after that.

By law, physicians generally must complete 50 contact hours of continuing education every two years, starting with their second license renewal.

## **§ 3 — ENDOMETRIOSIS DATA AND BIOREPOSITORY PROGRAM**

The bill requires UConn Health Center, in consultation with a research laboratory, to develop a plan to establish an endometriosis data and biorepository program to promote (1) early detection of endometriosis in adolescents and adults, (2) new therapeutic strategies to treat and manage the condition, and (3) early access to the latest therapeutic options for patients.

**Duties**

Under the bill, in developing its plan, UConn Health Center must require that the endometriosis data and biorepository program do the following:

1. collect standardized phenotypic data along with biological samples of a person's endometriosis and control samples to improve the characterization of the condition and the person who has it;
2. develop standard operating procedures for retaining and storing biological endometriosis samples and control samples, including for their collection, transportation, processing, and long-term storage;
3. curate biological endometriosis samples from a diverse cross-section of communities to ensure they represent all groups affected by endometriosis, including black and Latino persons, other persons of color, transgender and gender diverse persons, and persons with disabilities;
4. research the pathogenesis, pathophysiology, progression, and prognosis of endometriosis and the development of noninvasive diagnostic biomarkers, novel targeted therapeutics, curative therapies, and preventive interventions for the condition, including medical and surgical interventions;
5. serve as a centralized resource for endometriosis information;
6. facilitate collaboration among researchers and health care professionals, educators, and students on best practices for the diagnosis, care, and treatment of endometriosis; and
7. research the impact of endometriosis on Connecticut residents, including its impact on health and comorbidity, health care costs, and overall quality of life.

**Report**

Under the bill, the UConn Health Center board of director's chairperson must report to the Public Health Committee, by January 1, 2023, on the plan and the timeline for establishing the program.

**§ 4 — DPH BREAST AND CERVICAL CANCER EARLY DETECTION AND TREATMENT REFERRAL PROGRAM**

By law, DPH's breast and cervical cancer early detection and treatment referral program provides services, within existing appropriations and through contracts with health care providers, to women who (1) have incomes at or below 250% of the federal poverty level, (2) are 21 to 64 years old, and (3) lack health insurance coverage for breast cancer screening mammography or cervical cancer screening services. The bill requires the program to give priority consideration to women in minority communities with higher rates of breast cancer and cervical cancer than the general population.

Under existing law, the program's services include clinical breast exams, screening mammograms, and pap tests. The bill requires the program's mammography services to include, where possible, tomosynthesis, which it defines as a digital x-ray mammogram that creates two- and three-dimensional images of the breasts. The bill additionally requires the program to include HPV tests. As under existing law, these services must be provided as recommended by the U.S. Preventive Services Task Force guidelines for the woman's age and medical history. By law, the program also includes pap tests every six months for women who are HIV positive.

**BACKGROUND*****Related Bills***

HB 5303 (File 201), favorably reported by the Public Health Committee, contains the same provisions on physician continuing medical education and establishing an endometriosis data and biorepository program.

SB 249 (File 96), favorably reported by the Public Health Committee, contains the same provisions on the DPH Breast and Cervical Cancer

Early Detection and Treatment Referral Program.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea 31 Nay 0 (03/18/2022)