PA 23-195—HB 6835
Public Health Committee

AN ACT CONCERNING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES

SUMMARY: This act makes various unrelated changes in the public health statutes. Principally, it:

1. prohibits outpatient surgical facilities and certain hospitals from employing a person to provide surgical technology services unless the person meets specified training or experience requirements (§ 1);
2. enters Connecticut into the Counseling Compact, which provides a process authorizing professional counselors licensed in one member state to practice across state boundaries, without requiring licensure in each state (§§ 12 & 13);
3. authorizes hospitals to appoint their medical staff or individual medical staff members every two or three years (§ 14);
4. generally requires hospitals to give the mother of a stillborn child written notification about the child's burial and cremation arrangement options within 24 hours after the stillbirth, and requires the mother to tell the hospital about her decision on the disposition before her discharge from the facility (§ 15);
5. declares homelessness a public health crisis that will continue until the right of homeless individuals to receive emergency medical care is adequately safeguarded and protected (§ 16);
6. modifies marital and family therapist (MFT) associate licensure requirements and allows licenses to be renewed multiple times, instead of only once as under prior law (§ 17); and
7. authorizes the Department of Public Health (DPH), starting February 1, 2024, to issue one-year, non-renewable temporary permits to applicants for licensure as a doctoral-level psychologist if they meet certain requirements (§ 18).

The act also makes various technical changes in statutes related to, among other things, opioid patient treatment agreements, collaborative care models, social worker licensure examinations, maternal mental health day, and regional behavioral health action organizations (§§ 2-11).

EFFECTIVE DATE: October 1, 2023, except that the provisions on (1) the Counseling Compact, stillbirths, and MFT associate licensure take effect July 1, 2023, and (2) medical staff appointments and declaring homelessness a public health crisis take effect upon passage.

§ 1 — SURGICAL TECHNOLOGISTS

The act prohibits outpatient surgical facilities and hospitals (excluding chronic disease hospitals) from employing, or otherwise retaining, a person to perform surgical technology services unless the person:

1. successfully completed a nationally accredited surgical technology program and maintains a surgical technologist certification from a DPH-recognized national certifying body;
2. successfully completed a nationally accredited surgical technologist program and, on the date of hire, does not have the surgical technologist certification, but gets it within 18 months after completing the program;
3. worked as a surgical technologist in a hospital or outpatient surgical facility on or before October 1, 2023, as long as the facility or hospital gets proof from the person about his or her prior surgical technologist experience and makes it available to DPH, upon request;
4. successfully completed a surgical technology training program in the U.S. armed forces, National Guard, or U.S. Public Health Services; or
5. has been designated by the facility or hospital as competent to perform surgical technology services based on specialized training or specific experience, including as a phlebotomist, nuclear medicine technologist, ultrasound technologist, or central service technician, if it keeps a list of these designations.

The act exempts from the above requirements a person performing surgical technology services who is (1) acting within the scope of his or her license, certification, registration, permit, or designation or (2) a student or intern under a health care provider's direct supervision.

It requires these facilities or hospitals that employ or retain surgical technologists to submit to DPH, upon request, documentation showing that the technologists comply with the act's requirements.

Under the act, "surgical technology services" are surgical patient care services, such as the following:

1. preparing an operating room and the sterile operating field for surgical procedures by (a) ensuring that surgical equipment is functioning properly and safely and (b) using sterile techniques to prepare surgical supplies, instruments, and equipment;
2. anticipating and responding to surgeons' and other surgical team members' needs during surgery by monitoring the sterile operating field in an operating room and providing the required instruments or supplies; and
3. performing tasks at the sterile operating field, as directed, in an operating room setting, including (a) passing surgical supplies, instruments, and equipment directly to a health care provider; (b) sponging or suctioning an operative site; (c) preparing and cutting suture material; (d) transferring and irrigating with fluids; (e) transferring, but not administering, drugs within a sterile field; and (f) handling surgical specimens.

§ 12 — COUNSELING COMPACT

The act enters Connecticut into the Counseling Compact. The compact creates

a process authorizing professional counselors who are licensed in one member state to practice across state boundaries (including by telehealth) without requiring licensure in each state. Member states must grant the "privilege to practice" (i.e., the authority to practice in the state) to professional counselors holding a valid, unencumbered license who otherwise meet the compact's eligibility requirements. Generally, Connecticut retains broad authority to license and regulate professional counselors, but must grant qualifying professional counselors a privilege to practice in Connecticut.

The compact is administered by the Counseling Compact Commission, which Connecticut joins under the act.

Among various other provisions, the compact:

1. sets eligibility criteria for states to join the compact and for professional counselors to practice under it;
2. addresses several matters related to disciplinary actions for licensees practicing under the compact, such as information sharing among member states and removal of the privilege to practice under the compact;
3. allows the commission to levy an annual assessment on member states to cover the cost of its operations;
4. only allows amendments to the compact to take effect if all member states adopt them into law; and
5. has a process for states to withdraw from the compact.

In practice, the commission has begun meeting, but the compact is not yet fully implemented. Applications for the compact's privilege to practice are expected to open in early 2024.

A broad overview of the compact appears below.

Compact Overview

The Counseling Compact creates a process authorizing professional counselors to work in multiple states (including by telehealth) if they are licensed in one member state. A "licensee" is someone who currently holds state authorization to practice as a licensed professional counselor.

Under the compact, a "state" is a U.S. state, commonwealth, district, or territory that regulates professional counseling. A "member state" is a state that has joined the compact. A "home state" is the member state that is the licensee's primary state of residence. A "remote state" is a member state, other than the home state, where a licensee is exercising or seeking to exercise the privilege to practice.

"Privilege to practice" is a legal authorization, equivalent to a license, allowing the practice of professional counseling in a remote state. The compact specifies that the practice of professional counseling occurs in the state where the client is located.

State Eligibility (§ 12(3))

To participate in the compact, a state must currently do the following:

1. license and regulate licensed professional counselors (states are not required

to use that title);
2. require licensees to pass a nationally recognized exam the commission approves;
3. require licensees to have a 60 semester hour (or 90 quarter hour) master's degree in counseling or this many hours of graduate course work in specified related topics (e.g., professional counseling orientation and ethical practice, social and cultural diversity, and human growth and development);
4. require licensees to complete a supervised postgraduate professional experience as defined by the commission; and
5. have a mechanism to receive and investigate complaints about licensees.

Member states must also do the following:

1. participate fully in the commission's licensee data system, including using the commission's unique identifier;
2. notify the commission, in compliance with the compact's terms and rules, about any adverse action (e.g., disciplinary action against a license) or the availability of investigative information about a licensee;
3. comply with the commission's rules;
4. require applicants to be licensed in the home state and meet the home state's qualification for licensure or licensure renewal, as well as other applicable state laws; and
5. provide for the state's commission member to attend the commission's meetings.

The act requires Connecticut, as a condition of membership in the compact, to implement or use procedures to consider an applicant's criminal history when reviewing their initial privilege to practice.

Under the compact, the procedures for considering applicants' criminal history must include submitting fingerprints or other biometric-based information to obtain these records from the FBI and the state agency that maintains criminal records. Member states must fully implement the background check requirement, within a time frame established by rule, by receiving the FBI results and using them in making licensure decisions. The act correspondingly requires all applicants for a professional counselor license to submit to a background check (see § 13).

Communications between a member state and the commission, or among member states, regarding the verification of licensure eligibility must not include information received from the FBI on federal criminal records checks performed by a member state under specified federal law.

Nonresident Licenses (§ 12(3))

The compact specifies that people who do not live in a member state can still apply for a single state license in that state under its laws, but this license does not grant a privilege to practice in other member states.

Privilege to Practice (§ 12(3) & (4))

The compact requires member states to grant the compact's privilege to practice

to a licensee holding a valid, unencumbered license in another member state, under the compact's terms and rules. Member states may charge a fee for granting the privilege.

To exercise the privilege to practice under the compact, a licensee must meet the following requirements:

1. be licensed in the home state;
2. have a valid U.S. Social Security number or national practitioner identifier;
3. be eligible for a privilege to practice in any member state, under the compact's provisions on remote states' authority to remove that privilege (see *Respective States' Authority and Adverse Actions* below);
4. have no encumbrance or restriction against any license or privilege to practice within the prior two years;
5. notify the commission that the licensee is seeking the privilege to practice in a remote state;
6. pay any state fees or other applicable fees for the privilege;
7. meet the home state's continuing competence or education requirements, if any;
8. meet any applicable remote states' jurisprudence requirements (i.e., assessment of knowledge as to professional counseling practice laws and rules for that state); and
9. report to the commission within 30 days after being subject to any adverse action, encumbrance, or license restriction by any nonmember state.

Under the compact, the privilege is valid until the home license expires. The licensee must comply with the above requirements to maintain the privilege in the remote state.

Obtaining a New Home State License Based on a Privilege to Practice (§ 12(5))

Under the compact, a licensed professional counselor may hold a home state license, allowing for a privilege to practice in other member states, in only one member state at a time.

The compact sets a process for professional counselors who change their primary residence from one member state to another to obtain a new home state license and convert the former license to a privilege to practice (e.g., paying applicable licensure fees and verification by the new home state that the counselor meets specified requirements).

For counselors who change their primary state of residence from a member state to a nonmember state or vice versa, the new state's criteria apply to issue a license.

The compact specifies that licensees may be licensed in multiple states, but must have only one home state license for purposes of the compact.

Active Duty Military Personnel or Their Spouses (§ 12(6))

The compact requires active duty military personnel, or their spouse, to designate a home state where the person has a current license in good standing. The person may keep this designation while the service member is on active duty. To

change this designation, the person must apply for licensure in the new state or follow the process outlined above (see § 12(5)).

Compact Privilege to Practice Telehealth (§ 12(7))

Member states must recognize licensed professional counselors' right to practice via telehealth in any member state under a privilege to practice, as provided under the compact and the commission's rules. The licensee must be licensed in the home state under the compact and rules.

Licensees providing services in a remote state under the privilege must follow that state's laws and regulations.

Respective States' Authority and Adverse Actions (§ 12(4), (8) & (15))

The compact addresses several matters related to states' authority to investigate and discipline professional counselors practicing under its procedures. Broadly, the compact maintains the home state's authority to regulate the home state license and authorizes the remote state to regulate the compact privilege to practice in that state, each according to its own regulatory structure. For taking adverse action, a licensee's home state must give the same priority to conduct reported from other member states as it would to conduct within the home state.

The following are examples of the regulatory structure under the compact:

1. a home state has exclusive authority to impose adverse action against a home state license, but a remote state may remove a licensee's privilege to practice, investigate and issue subpoenas, impose fines, and take other necessary action;
2. if allowed by their law, member states may recover from the licensee the investigation and disposition costs for cases leading to adverse actions;
3. if a licensee's home state license is encumbered, he or she loses the privilege to practice in any remote state until (a) the encumbrance is lifted, (b) two years have passed without any encumbrance or restriction against a license or privilege to practice, and (c) the licensee otherwise meets the compact's eligibility requirements;
4. if a licensee's remote state privilege to practice is removed, he or she may lose the privilege in all other remote states until (a) the removal period passes, (b) all fines have been paid, (c) two years have passed without any encumbrance or restriction against a license or privilege to practice, and (d) the licensee otherwise meets the compact's eligibility requirements; and
5. member states may allow licensees to participate in an alternative program for impaired practitioners rather than imposing an adverse action.

Compact Database (§ 12(10))

Member states must submit specified information on licensees for inclusion in a database the compact creates, and the commission must promptly notify all member states about any adverse action against licensees or licensure applicants.

Adverse action and investigative information about a licensee in any member state is available to other member states. Member states that contribute information to the data system may designate information that may not be shared publicly without the state's express permission.

Counseling Compact Commission (§ 12(9) & (11))

The compact is administered by the Counseling Compact Commission, which consists of one voting member appointed by each member state's professional counselor licensing board. The compact sets several powers, duties, and procedures for the commission. For example, the commission:

1. may make rules that are binding to the extent and in the manner provided for in the compact (a rule has no effect if a majority of the member states' legislatures reject it within four years of the rule's adoption),
2. may levy and collect an annual assessment from each member state or impose fees on other parties to cover the costs of its operations, and
3. must have its receipts and disbursements audited yearly and the audit report included in the commission's annual report.

The compact addresses several other matters regarding the commission and its operations, such as setting conditions under which its officers and employees are immune from civil liability. By adopting the compact, Connecticut joins the commission.

Compact Oversight, Enforcement, Member Withdrawal, and Related Matters (§ 12(12)-(15))

Among other related provisions, the compact:

1. requires each member state's executive, legislative, and judicial branches to enforce the compact and take necessary steps to carry out its purposes;
2. requires the commission to take specified steps if a member state defaults on its obligations under the compact, and after all other means of securing compliance have been exhausted, allows a defaulting state to be terminated from the compact upon a majority vote of the member states;
3. requires the commission, upon a member state's request, to attempt to resolve a compact-related dispute among member states or between member and non-member states;
4. requires the commission to enforce the compact and rules and allows it to bring legal action against a member state in default upon a majority vote (the case may be brought in the U.S. District Court for the District of Columbia or the federal district where the commission's principal offices are located);
5. allows a member state to withdraw from the compact by repealing the enabling legislation, but withdrawal does not take effect until six months after the repealing statute's enactment;
6. allows member states to amend the compact, but no amendment takes effect until all member states enact it into law;

7. makes its provisions severable and requires that they be liberally construed to carry out its purposes, and if the compact is held to violate a member state's constitution, it remains in effect in the remaining member states; and
8. supersedes any conflicting laws in member states, to the extent of the conflict.

§ 13 — BACKGROUND CHECKS FOR PROFESSIONAL COUNSELOR LICENSURE

Under the act, the DPH commissioner must require anyone applying for professional counselor licensure to submit to a state and national fingerprint-based criminal history records check.

§ 14 — HOSPITAL MEDICAL STAFF APPOINTMENTS

The act authorizes hospitals to appoint their medical staff or individual medical staff members every two or three years. Appointments must be consistent with the (1) conditions and standards for participating in Medicare and (2) requirements of federally approved national accreditation organizations.

It also permits the DPH commissioner to amend existing regulations as needed to implement these requirements.

§ 15 — STILLBIRTHS

The act requires hospitals to give the mother of a stillborn child written notification about the child's burial and cremation arrangement options. Hospitals must do this (1) if practicable, when the mother is admitted to the hospital and expects to deliver a stillborn child or (2) if it is not practicable, or the mother did not expect to deliver a stillborn child, within 24 hours after the stillbirth, so long as the health care provider responsible for the mother's care agrees it is appropriate to do so.

Under the act, mothers who receive the notification, and any other known parent, must inform the hospital in writing about their decision on the stillborn child's disposition. They may do so at any time during their hospitalization but before they are discharged, as long as the mother and other parent have at least 24 hours after receiving the hospital's written notification to do so.

The act's provisions do not prohibit a health care provider or hospital from (1) giving the written notification to the mother's family member or friend, consistent with federal HIPAA privacy protections, or (2) referring the mother and other known parent to a licensed funeral director for additional information on disposition options.

§ 16 — DECLARING HOMELESSNESS A PUBLIC HEALTH CRISIS

The act declares homelessness a public health crisis in Connecticut that will continue until the right of homeless people to receive emergency medical care, as

guaranteed by the homeless person's bill of rights, is adequately safeguarded and protected.

Generally, under the homeless person's bill of rights, a homeless person or family (1) has no fixed, regular, adequate nighttime residence; (2) has a primary residence that is not designed for regular accommodation (e.g., a car, abandoned building, or park); (3) resides in a temporary shelter; or (4) is in danger of immediately losing their housing (42 U.S.C. § 11302).

§ 17 — MARITAL AND FAMILY THERAPIST ASSOCIATES

By law, people that meet certain educational and clinical training requirements can apply to DPH for an MFT associate license that allows them to practice under professional supervision while pursing full MFT licensure.

For initial associate licensure, the act eliminates prior law's requirement that an applicant provide DPH verification from a supervising licensed MFT that the applicant is working toward completing the postgraduate experience requirements for full licensure as an MFT.

Under existing law, an MFT associate license is valid for two years and may be renewed during the applicant's birth month. The act allows the license to be renewed multiple times, instead of only once as under prior law.

It also eliminates the requirement that licensure renewal applicants give DPH satisfactory evidence (1) that they are working toward completing the postgraduate experience required for full licensure and (2) of the potential for them to do so before their license renewal expires. It instead requires applicants to give DPH evidence that they completed the continuing education requirements for full licensure (i.e., at least 15 hours during each one-year period the license has been renewed).

§ 18 — PSYCHOLOGIST TEMPORARY PERMITS

The act authorizes DPH, starting February 1, 2024, to issue a temporary permit to an applicant for licensure as a doctoral-level psychologist if the applicant (1) has a doctoral degree in psychology or its equivalent from a program approved by the Board of Examiners of Psychologists, with DPH's consent, and (2) has not yet completed the supervised work experience or examination required for licensure. The permit authorizes the person to practice under the supervision of a licensed psychologist.

The act sets a $100 fee for the temporary permits, which are non-renewable and valid for one year after the date applicants completed their doctoral degree, or its equivalent. The permit is void and cannot be reissued if an applicant fails the licensure examination.

Under the act, a "doctoral-level psychology provider" is a postdoctoral resident or fellow who provides psychology services.