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Legislative Summary

In 2021, the Connecticut General Assembly passed numerous acts pertaining to health care, most of which went into effect on October 1, 2021. Many of these acts will directly impact health care providers, and a summary of some of the most pertinent acts to providers is included below. For specific questions about the laws discussed here, other legislation, and how these laws will impact you, please contact Arnold Menchel, (860) 297-4656, or Phoebe Roth, (860) 297-4685, at Halloran Sage. For a complete list of new legislation in Connecticut, visit the Connecticut General Assembly website, <http://www.cga.ct.gov>.

A New Tax Rate for Ambulatory Surgical Centers

The legislature has enacted a new tax rate for ambulatory surgical centers. Beginning on July 1, 2023, ambulatory surgical centers will be taxed at three percent of net revenue, as opposed to the current tax of six percent of gross receipts. The new tax also differs from the current tax rate in that it eliminates the current exemption of the first million dollars in gross receipts. (Both the current and the updated tax rate are subject to other exceptions and exclusions.) Ambulatory surgical centers, or entities seeking to open new ambulatory surgical centers, should review the new tax provision and consider its implications for their businesses. *See*, June Sp. Sess. (JSS), Public Act No. 21-2 §§ 462-468.

Connecticut Licensing of Out-of-State Professionals

Effective October 1, 2021, Connecticut has eased restrictions on the licensure of health care professionals (and other licensed professionals) from out of state. In a new law entitled *An Act Expanding Economic Opportunity in Occupations Licensed by the Departments of Public Health and Consumer Protection and Requiring a Report from Certain Executive Branch Agencies Regarding Background Checks and the Feasibility of Establishing Preclearance Assessments of Criminal History*, the legislature has indicated that the state shall license Connecticut residents or spouses of active duty service members permanently stationed in Connecticut, who hold a license, permit, certification, or registration for certain professions from another U.S. state (and meet other requirements). This will offer health care providers and practices more flexibility in hiring when it comes to new state residents or military spouses. For details on the required qualifications for the new state credentialing laws, *see* Public Act No. 21-152 §§ 1 & 4.

Changes to the Laws Governing Telehealth

In July 2020, the legislature enacted new telehealth laws in response to the pandemic that codified several executive orders issued by the governor in spring 2020. *See generally*, July Sp. Sess. Public

Act No. 20-2. The legislature has now extended these laws through June 30, 2023. Health insurers are instructed to provide coverage for certain telehealth services equal to the coverage for such services when they are performed in person. *See* Public Act No. 21-9 § 4(b). New legislation also expands the types of providers authorized to treat patients through telehealth, as well as the methods of acceptable telehealth (audio-only telephone services are now permissible under certain circumstances). Public Act No. 21-9 §§ 12 & 13, as amended by Public Act No. 21-133 §§ 3 & 4. Please keep in mind that Medicare and Medicaid have their own rules regarding telehealth.

OHS to Conduct a Study on Mergers of Physician Practices

A new law instructs the Office of Health Strategy (OHS) to conduct a study on methods to improve the oversight and regulation of mergers and acquisitions of physician practices in Connecticut. The purpose of the study is to improve health quality and choice in the state. The study shall include a review of statutes concerning this issue including Conn. Gen. Stats. §§ 19a-486i, 19a-639, and 19a-630. The study shall also include a review of methods to ensure the viability of physician practices and develop legislative recommendations to improve reporting and oversight of physician practice mergers and acquisitions. OHS shall issue a report of its findings by February 1, 2023. Physician practices considering a merger that will not be complete before February 1, 2023, should review the study produced pursuant to this act and comply with any future changes to applicable laws, as they take effect. *See* Public Act No. 21-129 § 5.

Changes to the Laws Governing Contracts Between Health Carriers and Providers

Effective October 1, 2021, new requirements apply to contracts between health carriers and providers. Specifically, such contracts entered, renewed, or amended on or after July 1, 2022, must include a ninety-day advance written notice requirement before certain changes are made. Such contracts must also include the possibility for providers to appeal proposed changes. Insurers must be aware of this notice requirement, and providers should be aware of their rights under such agreements. *See* JSS, Public Act No. 21-2 § 83.

New Law Pertaining to Collections by Hospitals and Related Entities

Effective October 1, 2022, current law that restricts collections by hospitals of unpaid bills by uninsured patients is extended to entities that are affiliated with hospitals. These affiliates include those employed by a hospital or health system, those under a professional services agreement with a hospital, and certain clinical faculty members of a medical school. These restrictions limit the amount that a hospital may seek to collect (to the cost of providing such care), and limit hospitals' and related entities' ability to refer patients to collections agencies, foreclose on their homes, or garnish their wages. The law also requires that hospitals cease collection efforts if the hospital learns that a patient is eligible for financial assistance. *See* Public Act No. 21-129 §§ 1-3.

Grant Funds for Mental Health and Addiction Services Providers

Connecticut state budget legislation has allocated 25 million dollars in federal funding (received through the American Rescue Plan Act of 2021) to the Commissioner of the Department of Mental Health and Addiction Services (DMHAS), to establish grant programs to assist private providers of services authorized by DMHAS. Fifteen million dollars are to be used to enhance employee wages and 10 million dollars are to be allocated to facility costs of private providers. The funds will be allocated to the DMHAS Commissioner for the fiscal years ending on July 30, 2022, and June 30, 2023. Mental health services providers may be eligible to receive this grant funding. *See* JSS, Public Act No. 21-2 § 322.

Department of Public Health Access to Electronic Medical Records

On or before October 1, 2022, if technically feasible, hospitals must provide the Department of Public Health with access to certain electronic health records. Specifically, hospitals must give the DPH access to electronic medical records that concern a reportable disease, emergency illness, or certain other health conditions. Hospitals must provide the DPH with access to the entirety of a patient's health record in order to perform such analysis or quality improvement audit as the DPH sees fit. All information received by the DPH shall remain strictly confidential. *See* Public Act No. 21-121 §§ 78-81.

Expansion of Medicaid

The Connecticut legislature has expanded eligibility for Medicaid, as well as other medical assistance. Effective October 1, 2021, the state shall increase funding for medical assistance for children eight years old or younger, regardless of immigration status, with household income in a certain range and who do not otherwise qualify for medical assistance. *See* Public Act No. 21-176 §§ 1 & 3. On or after April 1, 2022, postpartum coverage by Medicaid and the Children's Health Insurance Program (CHIP) shall be extended for 12 months after birth. *See* JSS, Public Act No. 21-2 §§ 335 & 336. Also on or after April 1, 2022, pregnant women shall be covered by CHIP by way of a new law that allows the state to consider an unborn child a low-income child. *See* Public Act No. 21-176 § 4; JSS, Public Act No. 21-2 § 344. Lastly, beginning April 1, 2023, the state shall fund assistance for postpartum care for 12 months after birth for women who do not qualify for Medicaid due to immigration status and meet certain income requirements. *See* Public Act No. 21-176 § 2.

Third Party Liability for Medical Care Payment

As of July 1, 2021, third parties that receive claims from the Department of Social Services (DSS) shall have ninety days to pay, request additional information for, or issue a written reason for denying payment of such claim. Moreover, beginning on July 1, 2021, insurers or other legally liable third parties that reimbursed DSS for healthcare items or services, and have determined that they are not liable for such items or services, have twelve months from the date of reimbursement to request a refund from DSS. *See* JSS, Public Act No. 21-2 § 334.

Investigations into Complaints Filed Against Veterinarians

Effective October 1, 2021, the Department of Public Health must provide information concerning the investigation of complaints filed against veterinarians to the person who filed the complaint at issue. DPH requirements for the investigation of other licensed professionals are also extended to investigations into complaints against veterinarians. *See* Public Act No. 21-121 §§ 20 & 21.

Hospital Provision of Documents Listing Child Behavioral and Mental Health Resources to Parents

Beginning on January 1, 2022, upon the discharge of a child from a hospital emergency department, the department must provide parents or guardians with information concerning behavioral and mental health evaluation and treatment resources available to children in the mental health region (pursuant to Conn. Gen. Stat. § 17a-478) where the hospital is located and where the child resides, if different. Documents containing this information must be produced by the Department of Children and Families and be completed by December 1, 2021, and will be distributed to hospitals by the Behavioral Health Partnership Counsel. *See* Public Act No. 21-116 §1.

Changes in the Law Governing Outpatient Mental Health Treatment for Minors

Effective July 1, 2021, minors may request and receive as many outpatient treatment sessions as necessary for their well-being, without the consent by or notification of the minor's parent or guardian, from a psychiatrist, psychologist, independent social worker, or a marital and family therapist. Prior law generally limited such treatment to six sessions. The minor's mental health provider may disclose certain information to the minor's parent or guardian if necessary for the child's well-being, if the treatment is solely for mental health and not for a substance use disorder, and if the minor has an opportunity to object to the disclosure. *See* Public Act 21-46 § 10.

Waiver of Regulations Governing Emergency Medical Services

Effective July 1, 2021, the Commissioner of Public Health may waive regulations governing emergency medical service organizations or personnel, if such a waiver does not endanger patients' or residents' health, safety, or welfare; and if the waiver does not impact the maximum allowable rates for these organizations. The Commissioner may terminate such a waiver to protect the health, safety, and welfare of patients. *See* Public Act No. 21-121 § 11.

Hospital Coding and Billing for Facility Fees

On October 1, 2022, several changes will go into effect with respect to the law governing hospital billing and coding for facility fees. Notice requirements to patients concerning these fees have been expanded, and must be delivered to patients in 15 different languages. Collection of facility fees will now be prohibited for both CPT E/M and A/M codes (whereas prior law only prohibited such fees for CPT E/M codes). For additional requirements, *see* Public Act No. 21-129 § 4.

Hospital Notices on Behalf of Admitted Patients

Effective October 1, 2021, hospital personnel must ask patients admitted to the hospital if they desire for a family member, caregiver, or support person to be notified of their hospital admission. Prior law only required that the hospital offer to provide such notice to the newly admitted patient's physician. Hospitals must make reasonable efforts to comply with patients' notification requests as soon as practicable, but not later than 24 hours after the patient makes the request. *See* Public Act No. 21-26 § 4.

Addition of Behavior Analysts to Certain Health Care Statutes

Certain laws governing health care professionals have been expanded to include behavior analysts. Effective October 1, 2021, behavior analysts have been added to the list of licensed professionals required to report suspected abuse, neglect, exploitation, or abandonment of a resident in a long-term care facility. Behavior analysts who fail to report such suspected abuse, neglect, exploitation, or abandonment shall be subject to a fine of up to \$500 or will be guilty of a misdemeanor if such a failure to report was intentional. The licensing fee for health care professionals shall be subject to a five-dollar increase and Behavior Analysts are eligible for the professional assistance program for health professionals. Behavior Analysts must also report to DPH if they are aware of another health professional who is unable to safely practice for a number of reasons. *See* Public Act No. 21-121 § 26-32.

Continuing Education for Social Workers

Effective upon passage, the number of hours of continuing education that a social worker may complete online each year has been increased from six to ten hours. Public Act No. 21-121 § 41.

Amendments to Laws Governing Medicaid Coverage

Effective upon passage, advanced practice registered nurses (APRNs) and physician assistants (PAs) are authorized to issue orders for home health care services paid for by DSS. Regulations, policies, and procedures applicable to physicians making such orders are now also applicable to APRNs and PAs. Public Act No. 21-133 § 1.

Effective upon passage, the Commissioner of DSS may waive or suspend utilization review criteria and procedures, including prior authorization requirements, for Connecticut's Medicaid and Children's Health Insurance Program. Not later than fourteen days prior to implementation, the Commissioner must notify providers of such waiver or suspension in a provider bulletin. *See* Public Act No. 21-133 § 5.

Not later than October 1, 2021, Connecticut Medicaid shall cover acupuncture and chiropractic services. *See* JSS, Public Act No. 21-2 § 331.

Effective upon passage, Connecticut Medicaid shall reimburse nurse-midwives at the same rate that it reimburses obstetrician-gynecologists for the same service or procedure and shall reimburse

podiatrists at the same rate as physicians for the same service or procedure. *See* JSS, Public Act No. 21-2 § 333.

Clinical Laboratory Reports to DPH

Effective July 1, 2021, prior to the issuance of a new license to a clinical laboratory, the renewal of an existing license of a clinical laboratory, or the opening or closure of a blood collection facility, clinical laboratories must report to DPH the name and address of each blood collection facility that they own and operate. *See* Public Act No. 21-121 § 39.

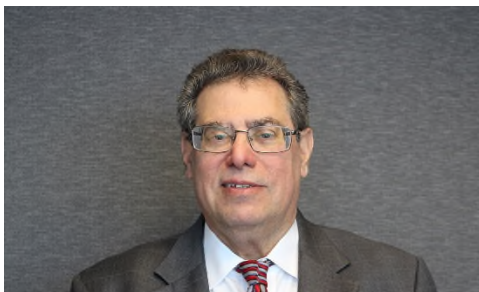
Provider Payment Parity Study

The Commissioner of DSS shall, in collaboration with the Commissioner of Mental Health Addiction Services in Housing, conduct a study on whether providers of physical and behavioral health services, as well as providers of housing and shelter services for homeless persons, receive disparate payment rates in different regions of the state. No later than November 1, 2021, the Commissioner shall report on the results of the study and provide any recommendations for rate adjustments. *See* Public Act No. 21-148 § 11.

Equalizing Access to Health Care in Response to the Pandemic

The legislature has passed an act to equalize access to mental, behavioral, and physical healthcare, in response to the COVID-19 pandemic. Among other things, the act declares racism to be a public health crisis in the state and establishes a Commission of Racial Equity in Public Health to address the crisis. *See* Public Act No. 21-35 §§ 1 & 2. The act also instructs the Department of Public Health to conduct a study on Connecticut's response to COVID-19, and to produce a preliminary report on this study no later than February 1, 2022. *See id.* at § 10.

For specific questions about these laws and how they will impact you, contact:



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