2017 Review of Key Legislation Relating to Providers of Services to the Elderly

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Introduction

- Status of Budget and Results of Last Week’s House and Senate Votes

- Items Not Passed in General Session/Included in Republican Budget that Passed Both Houses
  - CON
  - Fair rent / rates
  - Citation penalties

- Outlook
General Session Summary

- Nursing Homes
- Housing
- Home Health / Home Care
- Residential Care Homes (“RCHs”)
- Medical Orders for Life Sustaining Treatment (“MOLST”)
- Department of Public Health (“DPH”)
- Insurance
- Probate
- Employment / Business
- Miscellaneous
Nursing Homes, RCHs, CDHs

- Health Care Institution Construction (Public Act 17-95)
  - Requires all construction projects or building alterations to be submitted to DPH for review
  - Plans must comply with nationally-established facility guidelines for health care construction, as posted on DPH’s website

Effective 10/1/17
Nursing Homes

- Protection and Advocacy for Persons with Disabilities (Public Act 17-96)
  - The name, mailing address, and telephone number of Disability Rights Connecticut, Inc. must be included on the notice of transfer or discharge of any mentally ill or developmentally disabled resident
  - Similarly, DRC’s contact information must be included on the nursing home notice regarding refusal to readmit

Effective 10/1/17
Nursing Homes

- Long Term Care ("LTC") Plan (Public Act 17-123)
  - Requires the Department of Social Services ("DSS") to maintain a data collection system to develop a strategic plan for LTC, which must include robust information on the Money Follows the Person project
  - The LTC plan must also include the number of persons receiving supports and services in the community and in institutions

Effective 10/1/17
Nursing Homes

- Long Term Care ("LTC") Plan (Public Act 17-123), continued
  - Long Term Care Planning Committee must evaluate data on average Medicaid expenditures for nursing homes and for in-home and community-based services to be used in forecasting short- and long-term Medicaid expenditures
  - Allows Department of Aging ("DOA") to require organizations that are DOA grant recipients or contractors of DOA to collect and report data
Nursing Homes

• Definition of DNR Order (Public Act 17-146 § 6)
  
  • Defines “do not resuscitate order” as an order written by a licensed physician or APRN “to withhold cardiopulmonary resuscitation of [a] patient, including chest compressions, defibrillation or breathing, or ventilation of [the] patient by an assistive or mechanical means, including, but not limited to, mouth-to-mouth, bag-valve mask, endotracheal tube or ventilator”

  • Applies to DPH regulations governing the transfer of a DNR order

Effective 10/1/17
Nursing Homes

- Conditional Employment Pending Background Check (Public Act 17-146 § 19)
  - Current law allows for an employee to work for up to sixty days while a facility is awaiting the results of a background check
  - This Act authorizes DPH to extend the sixty-day time period to consider an individual’s request to waive a disqualifying offense

Effective 10/1/17
Nursing Homes

- Patient Bill of Rights (Special Act 17-14)
  - Requires DPH and DSS to study (by January 1, 2018) whether the patient bill of rights for LTC residents adequately protects resident rights in connection with room transfers within the same facility

Effective 6/7/17
Nursing Homes

- Opioids (Public Act 17-131)
  - § 3 (effective 1/1/18): Requires practitioners prescribing a controlled substance to send an electronic copy of the prescription to the pharmacy, with certain exceptions
    - Practitioners must maintain prescription records for at least three years
  - § 5 (effective 7/1/17): Requires prescribing providers to discuss the risks (including risks of addiction, overdose, and mixing with alcohol and other depressants) and benefits of the prescribed opioid with the patient
Housing

- Emergency Power Generators (Public Act 17-62)
  - Requires privately-owned multifamily housing projects in municipalities with populations between 130,000 to 135,000 to have at least one emergency power generator
  - Currently, only applies to one New Haven Housing Authority housing project (consisting of five buildings)

Effective 10/1/17
Housing

- Removal of Property of Deceased Tenants (Public Act 17-22)
  - Requires landlord to send notice to tenant’s emergency contact (in addition to previously-required next of kin) of landlord’s intention to remove the tenant’s property
  - Notice must include landlord’s and Probate Court’s contact information, regarding reclaiming the tenant’s property
  - Allows municipalities to sell property at public auction if not reclaimed within fifteen days of its removal and storage
    - Proceeds may be used to pay the storage costs; any excess must be turned over to the estate of the deceased person

Effective 10/1/17
Study of Housing of Elderly Persons and Younger Persons with Disabilities (Special Act 17-19)

- Requires DOH to designate three state-funded housing projects that provide services to elderly tenants and younger tenants with disabilities to conduct a study.
- Study must include census of occupants, rents charged, assessment of support services, estimate of additional needed state appropriations and number of eviction proceedings in prior 5 years.

Effective 6/7/17
Housing

- Temporary Health Structures (Public Act 17-155)
  - Permits property owners who are caregivers of a mentally or physically impaired person to place a temporary health structure on his or her property, despite zoning regulations
  - “Temporary health structure” is defined as “a transportable residential structure that provides an environment in which a caregiver may provide care for a mentally or physically impaired person”
  - Owner must obtain a permit from the municipality and must notify the abutting property owners
  - Municipalities are permitted to place additional restrictions

Effective 10/1/17
Housing

- Essential Services (Public Act 17-171)
  - Under current law, if a landlord fails to supply an essential service (e.g., heat, running water, hot water, electricity, gas, etc.) within two business days, the tenant may secure reasonable substitute housing.
  - This Act amends this time frame to forty-eight hours.

Effective 10/1/17
Housing - Assisted Living

- Influenza Prevention
  - In lieu of legislation, LeadingAge Connecticut is partnering with the Connecticut Assisted Living Association to annually deliver information regarding seasonal influenza prevention to members providing assisted living services, guided by official information disseminated by DPH and the Centers for Disease Control and Prevention
Home Health / Home Care

- Timing of Notice to Patients of Legal Liabilities (Public Act 17-53)
  - Home health care registries now required to provide notice to consumer (and receive a signed copy of the notice from the consumer) specifying the registry’s legal liabilities prior to the commencement of services
  - Previously could do so within four calendar days
  - Exception for bona fide emergencies

Effective 10/1/17
Home Health / Home Care

- DSS Medicaid Audit Process (Public Act 17-135)
  - § 1 (effective 7/1/17): DSS cannot apply any agency policy, guideline, bulletin or manual provision in its audit determinations unless such policy, guideline, bulletin or manual provision was promulgated and distributed prior to the audit
  - § 2 (effective 6/27/17): DSS cannot extrapolate overpayments due to errors in the implementation of the state-required electronic visit verification (EVV) system
    - For “nonmedical providers” – for the period of January 1, 2017 to May 1, 2017
    - For “medical home health care providers” – for the period of April 1, 2017 to August 1, 2017

Also, DSS must submit a report on EVV implementation to the Human Services Committee not later than 7/1/18.
Home Health / Home Care

- Administration of Medicine by Homemaker-Home Health Aides (Public Act 17-146)
  - Requires any homemaker-home health aide certified in the administration of medicine prior to June 30, 2015 to be recertified prior to July 1, 2018

Effective 6/23/17
Home Health / Home Care

- Surety Bonds; DCP License Lapses (Public Act 17-77)
  - § 11 (effective 7/1/17): Requires that surety bonds held by homemaker-companion agencies be at least $10,000 and include coverage for theft by an employee from a person to whom services are provided
  - Allows the Department of Consumer Protection (“DCP”) to reinstate DCP-issued licenses, permits, certifications or registrations without examination if the applicant applies within three years from the date allowing for automatic reinstatement
    - If more than three years have lapsed, the applicant must re-apply
Home Health / Home Care

- Destruction or Disposal of Controlled Substances (Public Act 17-131)
  - Allows registered nurses ("RNs"), with permission from patient or patient’s representative, to destroy and dispose of the patient’s controlled substances
  - RN must keep record of destruction or disposal for three years, which must also be included in the patient’s medical record
  - RN may dispose in statutorily-authorized prescription drug box, but we caution against any RN taking possession of any controlled substance

Effective 6/30/17
RCH

- Administration of Medication (Public Act 17-146 § 32)
  - Requires any personnel certified in the administration of medication prior to June 30, 2015 to be recertified prior to July 1, 2018

Effective 7/1/18
**MOLST**

- Medical Orders for Life Sustaining Treatment ("MOLST") (Public Act 17-70)
  
  - Requires DPH to establish a state-wide program for the use of MOLST
  
  - DPH to create regulations to ensure: (i) transferability of orders among health care institutions; (ii) voluntary participation in the program is documented; (iii) patients are notified of the benefits and risks; and (iv) providers receive appropriate training
  
  - Establishes a MOLST advisory council to meet at least annually

Effective 10/1/17
Disciplinary Action; Purchase of DME (Public Act 17-146 § 7)

- Allows licensing boards and commissions (and DPH for professions without boards or commissions) to summarily take action against a practitioner who has been subject to disciplinary action by the federal government

Effective 10/1/17
DPH

- Psychiatry Workforce Shortage (Public Act 17-146 § 46)
  - Creates task force to study projected shortage in psychiatry workforce – recommendation due by 7/1/18
DPH

- Opioids (Public Act 17-131 § 4)
  - Requires DPH to create and post to its website a form that permits individuals to indicate that they do not wish to receive prescriptions for opioid drugs
    - The form must allow the individual to designate a guardian or health care proxy who may override the non-opioid directive
  - DPH must post information on its website regarding how providers can become certified to prescribe medicine for opioid use disorders

Effective 10/1/17
Food Code (Public Act 17-93)

- Requires DPH to adopt and administer the FDA’s Food Code by July 1, 2018
  - Class 4 food establishment includes retail food establishments that serve a population highly susceptible to food-borne illnesses, including hospital patients and nursing home residents
- Permits DPH to announce the identity of a food establishment that was the source of a food-borne illness or food-borne outbreak verified by DPH
Insurance

- Participating Provider Directories (Public Act 17-154)
  - Requires each insurer to post on its website (and in print, upon request) whether each in-network health care provider listed in its electronic participating provider directory is accepting new patients on an outpatient basis

Effective 1/1/18
Probate

- Conservator Accountability (Public Act 17-7)
  - § 1 (effective 1/1/18): Authorizes the Probate Court Administrator to audit the account of a conservator of an estate
  - § 2 (effective 7/1/17): Requires the Probate Court Administrator to consult with the Connecticut Probate Assembly to adopt standards to provide guidance to court-appointed conservators
Probate

- Substitute Decision-Making Documents (Public Act 17-91)

  • Out-of-state decision-making documents are valid if execution complied with the law of the jurisdiction indicated in the document
  
  • If the document relates to health care or personal care and was executed outside of Connecticut, it is valid if it complies with (i) the law the jurisdiction indicated within it or (ii) Connecticut law
  
  • A person who in good faith accepts a substitute decision-making document that is invalid without actual knowledge of the invalidity may assume that the document is still in effect

Effective 10/1/17
Withholding Pay for Child Support (Public Act 17-27)

• Under current law, when an employee requests workers’ compensation or unemployment benefits, if this employee’s pay is being partially withheld to pay child support, an employer must notify the employee’s dependent or Support Enforcement Services.

• This Act requires employers to include a copy of the income withholding order in its report of the occupational illness or injury to the employer’s workers’ compensation benefits carrier.

Effective 1/1/18
Employment / Business

- Pregnancy and the Workplace (Public Act 17-118)
  - Revises definitions of “pregnancy,” “reasonable accommodation,” and “undue hardship”
  - Expands upon potential discriminatory practices
  - Requires employers to provide written notice of employees’ right to be free from pregnancy-related discrimination
    - Must be provided to new employees upon the start of employment
    - Must be provided to existing employees by end of January 2018

Effective 10/1/17
Employment / Business

- Protections for Veterans (Public Act 17-127)
  - Prohibits discrimination against a person for his or her status as a veteran in areas such as employment, public accommodations, housing, and granting of credit
  - Allows any active duty member of the armed forces to apply for Medicaid programs on behalf of his or her spouse or child

Effective 10/1/17
Notice of Workers’ Compensation Claims (Public Act 17-141)

- Permits, but does not require, employers to post in the workplace notice of where employees may send written notice of a claim for workers’ compensation

- Clarifies that if an employer does post such information, the window to contest liability begins when the employer receives the written notice at the address posted

Effective 10/1/17
Miscellaneous

- Respectful Person-First Language (Public Act 17-202)
  - Makes technical changes to Connecticut statutes:
    - Replaces “handicapped persons” with “persons with disabilities”
    - Replaces “elderly” with “older”
    - Replaces “personal care attendant” with “personal care assistant” in the context of nonprofit centers for independent living

Effective 10/1/17
Sale of Raffle Tickets (Public Act 17-161)

- Current law allows veterans’, civic, fraternal and charitable organizations to sell raffle tickets
- This Act allows these organizations to promote and sell raffle tickets online, but does not allow these organizations to conduct online raffles

Effective 10/1/17
Miscellaneous

- Health Data Collaborative Working Group (Public Act 17-85)
  - Establishes a working group to study and make recommendations on, among other things, health data access, privacy and security, and advancements in health data and population health
  - Members include representatives from the insurance industry and the health care industry

Effective 6/30/17
Questions?
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