



JULY 2011

Health Law Legislative Update Part 1

The following is a general summary of certain significant legislation enacted during the 2011 Connecticut legislative session.

PUBLIC ACT 11-32: An Act Requiring Health Care Providers to Display Photographic Identification Badges during Work Hours.

Effective as of October 1, 2011.

All individuals who provide direct patient care and are employed by, or acting on behalf of, a health care facility or institution must wear a photographic identification badge during work hours. This requirement applies to hospitals, outpatient surgical facilities, homemaker-home health aide agencies, nursing homes, and other health care facilities and institutions. The identification badge must include the name of the health care facility or institution; the name of the health care provider; and the type of license, certificate, or employment title that the health care provider holds with the health care facility or institution. Health care facilities and institutions must develop policies, in consultation with the Department of Public Health, governing the size and content of identification badges and must develop any exemptions to the requirement necessary to ensure the safety of patients and providers.

PUBLIC ACT 11-2: An Act Concerning the Provision of Prophylactic and Emergency Care to Hospital Patients.

Effective as of July 1, 2011.

Under current law, hospitals may administer certain vaccines to patients without a physician's order. This new law permits hospitals to administer care to patients without a physician's order as long as the care is emergent, timely, and necessary or is for the purpose of advancing patient care. In addition, hospitals may administer prophylactic care to healthy newborns without a physician's order. In both instances, such care must be provided pursuant to a physician-approved hospital policy and be permitted by Medicare's Conditions of Participation for

hospitals.

PUBLIC ACT 11-76: An Act Concerning Patient Access and Control over Medical Test Results.

Effective as of October 1, 2011.

Under current law, health care providers must, upon request by a patient, supply the patient with complete and current information in the provider's possession that concerns any diagnosis, treatment, or prognosis of the patient. The provider must also notify the patient of any test results that it has in its possession or that it has requested for purposes of diagnosis, treatment, or prognosis.

In addition, the new law requires clinical laboratories, other than state laboratories established by the Department of Public Health, to provide test results to a provider for purposes of diagnosis, treatment, or prognosis if requested by the patient or by the provider who ordered medical tests on behalf of the patient. Furthermore, a provider who orders repeated medical testing for purposes of diagnosis, prognosis, or course of treatment may now issue a single authorization allowing the testing entity to communicate results directly to the patient during the period of time that testing is requested. Previously, a separate written authorization was required for each test performed.

PUBLIC ACT 11-47: An Act Concerning the Unauthorized Taking or Transmission by First Responders of Images of Crime or Accident Victims.

Effective as of October 1, 2011.

Under this new law, it is a crime for first responders who respond to a request for assistance to a person to take photographs of such person, other than in performance of their duties, without acquiring permission from the victim or the victim's family. It is also a crime for first responders to transmit, disseminate, or otherwise make available any photographs taken of such person without acquiring permission to do so. This new law applies to peace officers, firefighters, ambulance drivers, emergency medical responders, emergency medical technicians, and paramedics and is punishable by a fine of up to \$2,000 or imprisonment of up to one year, or both.

PUBLIC ACT 11-16: An Act Concerning Revisions to Statutes Relating to the Department of Developmental Services Including the Utilization of Respectful Language When Referring to Persons with Intellectual Disability.

Effective as of May 24, 2011.

This new law amends the language of statutes relating to the Department of Developmental Services to implement person-first language and utilize more respectful terms when referring to persons with intellectual disability. An example of person-first language is referring to an

individual with autism spectrum disorder as "a person with autism spectrum disorder" instead of "an autistic person." Most notably under the new law, any use of "mental retardation" in the statutes is replaced with the term "intellectual disability," and any use of the term "training home" is replaced by either "companion home" or "community living arrangement."

PUBLIC ACT 11-26: An Act Permitting Inquiry Access to the Department of Developmental Services' Abuse and Neglect Registry for Charitable Organizations Which Recruit Volunteers to Work with Persons with Intellectual Disabilities.

Effective as of June 3, 2011.

To conduct background checks on volunteers, information in the Department of Developmental Services' abuse and neglect registry is now available to charitable organizations that recruit volunteers to work with persons with intellectual disabilities. Under current law, the registry is only available to (1) authorized agencies for the purpose of protective service determinations; (2) employers who employ individuals to provide services to a client of the department; and (3) the Department of Children and Families and the Department of Mental Health and Addiction Services for purposes of determining whether an applicant for employment appears on the registry.

PUBLIC ACT 11-48: An Act Implementing Provisions of the Budget Concerning General Government.

The following provisions are effective as of July 1, 2011:

- In general, Medicaid pays for one pair of eyeglasses every two years. However, Medicaid will now pay for an additional pair during the two year period when a Medicaid recipient's health care provider determines that such eyeglasses are necessary because of a change in the recipient's medical condition.
- This new law creates the Office of Governmental Accountability (OGA), and consolidates the Freedom of Information Commission, as well as several other currently independent commissions, into the OGA. The OGA provides personnel, payroll, affirmative action, administrative and business office functions, and information technology to these entities. The Freedom of Information Commission, acting as a subdivision within the newly formed OGA, now consists of nine members, rather than five.

The following provision is effective as of October 1, 2011.

Under this new law, health care institutions caring for newborn infants must administer a severe combined immunodeficiency disease screening test for every newborn infant under their care. This requirement is in addition to current testing requirements, which require institutions to screen for cystic fibrosis, administer an HIV-related test, and test for several other inborn errors of metabolism as prescribed by the Department of Public Health.

The following provision is effective as of January 1, 2012.

For purposes of business registration, the Commercial Recording Division of the Office of the Secretary of the State will establish an electronic business portal as a single point of entry for business entities. In addition to receiving business registration filings, this portal will provide explanatory information and electronic links provided by state agencies and quasi-public agencies to assist businesses in determining permitting and licensure requirements, identifying state revenue responsibilities and benefits, and finding available state financial incentives and programs. The information that businesses provide through the portal for purposes of registration may be made available to state agencies and quasi-public agencies for economic development, state revenue collection, and statistical purposes.

PUBLIC ACT 11-6: An Act Concerning the Budget for the Biennium Ending June 30, 2013, and Other Provisions Relating to Revenue.

The following provisions are effective as of July 1, 2011:

- Hospitals' net patient revenue are now taxed at up to the maximum allowable rate under federal law. Net patient revenue is defined as the amount of accrued payments earned by a hospital for the provision of inpatient and outpatient services. Hospitals must file tax returns electronically and make payments by electronic funds transfer, and the Commissioner of Social Services may examine the records and returns of any hospital to determine whether the tax has been overpaid or underpaid. Any delinquent amount is deducted by the Commissioner of Social Services and withheld from amounts otherwise payable to the delinquent hospital. The Commissioner may exempt a hospital from the tax on payment earned for the provision of outpatient services based on financial hardship, in accordance with federal law. This tax does not apply to hospitals licensed as children's general hospitals on or after October 1, 1997, or short-term acute care hospitals operated by the State of Connecticut, other than those for which the state acts as a receiver.
 - Services in connection with cosmetic medical procedures are now subject to a 6.35 percent sales tax. Such procedures include cosmetic surgery, hair transplants, cosmetic injections, cosmetic soft tissue fillers, dermabrasion and chemical peel, laser hair removal, laser skin resurfacing, laser treatment of leg veins, and sclerotherapy. Reconstructive surgery, including procedures to improve function or give a more normal appearance, is not considered a cosmetic medical procedure.
 - Any nursing facility providing services eligible for payment under Medicaid may request a payment from the Commissioner of Social Services in advance of normal bill payment processing. Such advances may not exceed estimated amounts due to the nursing facility for services provided to eligible recipients over the most recent prior two-month period. Nursing facilities must repay any advance payment through restrictions in subsequent payments due to the nursing facility, or in a cash payment, within 90 days of the advance. Advances are not provided to any nursing facility at risk of bankruptcy or insolvency, and the Commissioner of Social Services may execute with the nursing facilities agreements appropriate for the security of repayment.
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PUBLIC ACT 11-23: An Act Concerning the Establishment of a Lupus Education and Awareness Plan.

Effective as of July 1, 2011.

An Interagency and Partnership Advisory Panel on Lupus has been established within the Department of Public Health. The advisory panel will consist of thirteen appointed members serving not more than two full two-year terms. Members will include a physician recommended by the Connecticut State Medical Society and a nonphysician medical clinician, each with significant experience treating persons with lupus; an individual with lupus recommended by the Lupus Foundation of America; and individuals appointed by each of the speaker of the House of Representatives, the president pro tempore of the Senate, and the minority leaders of both the House of Representatives and the Senate. The advisory panel analyzes the current state of education on lupus, evaluates currently available lupus-related materials and resources, and identifies gaps in the current lupus education in Connecticut through a needs assessment or similar mechanism.

Based on the needs assessment, the advisory panel develops and implements a comprehensive plan to improve lupus education and awareness for health care practitioners, public health personnel, patients, and persons who may have lupus. The plan includes recommendations such as how best to distribute health information on lupus, to develop lupus-related educational materials, and to support lupus-focused continuing medical educational programs in Connecticut's academic institutions.

PUBLIC ACT 11-10: An Act Concerning Exemptions from the Certificate of Need Process for Researchers Utilizing Certain Technologies That Have No Impact on Human Health.

Effective as of May 24, 2011.

The acquisition of any equipment used exclusively for scientific research is now exempt from the requirement to obtain a Certificate of Need, provided the research is not conducted on humans.

PUBLIC ACT 11-38: An Act Concerning Contracts with Ophthalmologists and Optometrists.

Effective as of January 1, 2012.

Under current law, health care centers and preferred provider networks offering both ophthalmic and optometric care must contract with ophthalmologists and optometrists in a fair manner and provide sufficient representation to, and notify their members of, the availability of both services. This new law requires health care centers and preferred provider networks to provide ophthalmologists and optometrists with equal access to health plans offered by a health insurer with which the health care center or preferred provider network contracts. In addition, health care centers and preferred provider networks may not restrict participation in such health plans

based on limitations in services offered by ophthalmologists or optometrists.

PUBLIC ACT 11-40: An Act Concerning the Administration of Peripherally Inserted Central Catheters in Long-Term Care Settings.

Effective as of October 1, 2011.

Intravenous (IV) therapy nurses employed in chronic and convalescent nursing homes, or rest homes with nursing supervision, who operate an IV therapy program may administer peripherally inserted central catheters as part of such facility's IV therapy program.

PUBLIC ACT 11-67: An Act Concerning Insurance Coverage for Breast Magnetic Resonance Imaging and Permitting Districts to Join Municipalities and Boards of Education to Procure Health Care Benefits.

Effective as of January 1, 2012.

Individual and group insurance policies will be required to provide benefits for magnetic breast imaging if a mammogram demonstrates heterogeneous or dense breast tissue or a woman is believed to be at increased risk for breast cancer. Currently, such policies limit benefits to mammograms and ultrasound screening.

If you have questions about any of these new laws, contact a member of our [Health Law Group](#).

[Lisa M. Boyle](#)

[Theodore J. Tucci](#)

[Stephen W. Aronson](#)

[Michael J. Kolosky](#)

[Kimberly E. Troland](#) *

[Pamela H. Del Negro](#)

[B. Moses Vargas](#)

[Susan E. Roberts](#)

[Meaghan Mary Cooper](#)

* Not admitted to practice in Connecticut.

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