



**REVIEW OF KEY LEGISLATION
RELATING TO PROVIDERS OF SERVICES
TO THE ELDERLY**

**2004 LEGISLATIVE SESSION OF THE
CONNECTICUT GENERAL ASSEMBLY**

PREPARED BY:

Mag Morelli
CANPFA
1340 Worthington Ridge
Berlin, CT 06037
860-828-2903

Maureen Weaver, Esq.
Catherine P. Baatz, Esq.
Wiggin and Dana LLP
One City Place
Hartford, CT 06103
860-297-3700

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2004 LEGISLATIVE SESSION REPORT

I. Provider Tax Dies

The 2004 Legislative Session adjourned at midnight on May 5th and was reconvened several days later to complete the necessary budget implementer legislation. Keeping a constant presence at the Capitol, CANPFA was extremely involved in many issues, but the priority issue this session was the proposed nursing home provider tax. Taking a position in opposition to the tax, CANPFA worked diligently to lobby against the bill. In the end, the provider tax bill, Senate Bill 565, died as the legislature adjourned.

Legislators Address CANPFA's Concerns

In the final days of the session, in an attempt to pass the provider tax, key legislators revised and amended the bill to address CANPFA's concerns, but time ran out before a vote could be taken and the bill died. A copy of the revised amendment can be viewed at ["AN ACT CONCERNING A NURSING FACILITY USER FEE"](#) The amendment would have:

- Collected a user fee of \$14 a bed day, and then returned the fee in an "additional per diem rate" of approximately \$35 a day.
- The additional per diem rate would not have been subject to the rate caps.
- The money collected by the user fee would have been kept in a separate nursing home budget account and used to fund the additional per diem rate.
- There were no strings attached to the first year of the per diem rate – but half of any increase in subsequent years would have had to be dedicated to staffing.

- CCRCs were to be waived out. The tax would not have become effective until and unless the waiver was granted by CMS.

Provider Tax Issue Will Return

The provider tax continues to be strongly supported by the labor unions and the for-profit association. Therefore it is expected that this issue will be raised again in the 2005 Legislative Session.

II. The Interim Budget Bills

Although this was the midyear of a biennial budget, interim budget adjustments were made and several issues of interest to CANPFA members were addressed in the two budget implementer bills passed by the legislature. In addition, the actual interim budget bill (Public Act 04-216) includes state funding for federally funded Nursing Facility Transition Grant to extend work for an additional year and provides additional funding for assisted living in the three federally financed HUD facilities. A fourth HUD assisted living pilot will also be initiated, but only for DSS clients.

The Department of Social Services budget implementer bill is Public Act 04-258, [AN ACT CONCERNING STATE EXPENDITURES FOR SOCIAL SERVICES PROGRAMS.](#) The provisions of this law listed below became effective July 1, 2004 unless otherwise indicated.

- **MANAGED CARE PILOT FOR DUAL ELIGIBLES** Section 4 establishes a managed care pilot program for up to 500 dual eligible elderly or disabled individuals. The pilot is intended to demonstrate the feasibility and cost effectiveness of delivering comprehensive health insurance coverage in a managed care setting to such recipients. *Effective June 1, 2004*
- **PRIVATE PAY ASSISTED LIVING PILOTS** Sections 5 and 6 limit the maximum participation in the two assisted living pilot

projects, established pursuant to C.G.S. §§ 17b-365 and 17b-366, to 75 participants combined.

- **REPEAL OF CONTROVERSIAL CONNPACE & MEDICAID PROVISIONS IMPLEMENTED IN 2003**
 - Section 11 removes the estate recovery for ConnPACE. *Effective June 1, 2004*
 - Section 12 removes the asset test for ConnPACE. *Effective June 1, 2004*
 - Section 43 repeals the co-pays and deductibles for Medicaid clients. *Effective July 1, 2004*
- **HOUSING VOUCHER PROGRAM WAITING LIST** Section 14 establishes new waiting list requirements for the federal Housing Choice Voucher Program, including notification of a DSS-designated Internet web site of the following: the date a waiting list is opened, how an applicant may apply and the date, if any, when the waiting list may close.
- **LEGAL ALIENS** Sections 15 through 18 reopen state assistance programs, including a Medicaid-equivalent state-funded medical assistance program, Connecticut home-care program for the elderly, food assistance program, and state-administered general assistance program, to legal aliens as defined pursuant to C.G.S. §§ 17b-112c, 17b-257b, 17b-342 and 17b-790a.
- **SALE OF NON-PROFIT HOSPITAL OPERATIONS** Sections 22 through 24 modify the requirements placed on a non-profit acute care hospital when it attempts to sell portions of the operations (such as a skilled nursing facility) to for-profit entities.
- **VEIERANS HOME SNF** Section 26 allows the Veterans Home and Hospital in Rocky Hill to apply for licensure for skilled nursing beds, ICF beds and assisted living services without the need for a CON.
- **MODIFICATIONS OF DRUG RETURN PENALTIIES** Section 28 revises C.G.S. §17b-363a to allow DSS discretion in determining the amount of a fine for non-compliance

with the drug return program. The statute formerly required a fine of \$30,000 per incident and the revision calls for a fine of “not more than” \$30,000.

- **MODIFICATIONS OF SANCTION RESTRICTIONS ON NEW NURSING HOME OWNERSHIP** Section 39 revises C.G.S. §19a-528a to (1) require any potential nursing home licensee or owner to disclose in a change of ownership application (i) all civil penalties imposed in this or *any other state* during a two-year period (note: the revised language eliminates the prior reference to four civil penalties), (ii) any state intermediate sanctions imposed under the Medicare or Medicaid programs, or (iii) any termination or non-renewal of a Medicare or Medicaid provider agreement in *any state* and (2) prohibit any potential licensee or owner from acquiring a nursing home in Connecticut for five years from the date of the imposed penalty, sanction or termination, unless, subject to the discretion of DPH, the potential licensee or owner can show “good cause” for allowing the acquisition.
- **PERSONAL CARE ASSISTANT PILOT FOR ELDERLY** Section 40 establishes a pilot to allow up to 100 persons 65 years of age or older and eligible for the home-care program to receive personal care assistance as an alternative covered service to home health services to avoid institutionalization. A non-spousal family member may provide personal care assistance. Section 41 requires a federal waiver for this pilot.

The other budget implementer is Special Session Public Act 04-02, [AN ACT CONCERNING BUDGET IMPLEMENTATION](#). The relevant provisions of this law are listed below:

- **RESIDENTIAL CARE HOME RATE INCREASE** Section 86 increases state reimbursement rates for licensed residential care homes (RCHs) by 2 ¼% for FY 2004-05. The increase does not apply to RCHs that would have received a lower rate on July 1, 2004 than they had in FY 2003-04 because of interim rate status or agreement with

- DSS, and instead, such RCHs must receive that lower rate on July 1, 2004. (Section 86) *Effective July 1, 2004*
- **BLOCK GRANT AUTHORITY LIMITATION** Section 106 prohibits the DSS commissioner, between the date this bill takes effect and June 30, 2005, from agreeing to any Medicaid waiver in which the federal government, as a condition of granting the waiver, requires the state to agree to limit the normal 50% federal cost-sharing in the program. (Note: This law blocks any attempt by the Administration to pursue a federal block grant for Medicaid). *Effective May 15, 2004*
 - **CONNECTICUT HOUSING FINANCE AUTHORITY'S (CHFA) DUTIES AND POWERS** (Sections 90-95) *Effective May 15, 2004 unless otherwise indicated*
 - *New Britain's Redevelopment Plan* Allows CHFA to amend this approved redevelopment plan.
 - *CHFA'S Powers* Empowers CHFA to provide assistance in connection with the New Britain and Stamford housing revitalization plans created by PA 03-6, June 30 Special Session.
 - *DEC D Property Transfer* Makes a technical change in reference to DEC D's authority to transfer certain property to CHFA.
 - *Payments In Lieu of Taxes* By law, DEC D can enter into contracts with a municipality and its housing authority to make PILOTs to the municipality for real property the authority owns or leases under DEC D's moderate rental and primary housing programs. The law extends these provisions to property CHFA owns or leases under the two programs. It is not clear whether the PILOT provision applies to property CHFA owns or leases pursuant to PA 03-6, June Special Session.
 - *Tenants Rights and Grievances Procedures* By law, housing authorities receiving state assistance must (1) provide their tenants with a written lease, (2) adopt a procedure for hearing tenant complaints

and grievances, (3) adopt procedures for tenants to comment on proposed housing authority policy and procedure changes, and (4) encourage tenant participation in the housing authority's operation of state housing programs. This law extends these requirements to CHFA or its subsidiary when they are successor owners of housing previously owned by a housing authority for moderate-income rental housing or housing for elderly people. *Effective July 1, 2004*

- **CHFA Housing Operations** When CHFA or its subsidiary is a successor owner of housing previously owned by a housing authority for moderate-income rental housing or housing for elderly people, this law subjects CHFA or its subsidiary to the same requirements and directs it to operate or dispose of the housing in compliance with the same laws as apply to housing authorities.

III. Nursing Home Fire Sprinkler Mandate

The official report being developed by DSS, DPH and DPS on the nursing home fire sprinkler installation that was mandated in 2003 by Public Act 03-03 has not yet been released. In the absence of that report, CANPFA had been working to pass legislation to extend the current timelines for sprinkler installation so that there would be time to address any issues that might be raised in the report – such as the funding sources. We were unsuccessful in our efforts to include this issue in one of the budget implementer bills, and therefore the current timelines remain in force.

Reminder: Section 92 of Public Act 03-03, specifies that all nursing facilities have approved automated fire-extinguishing systems installed by July 1, 2005. The law also requires that facilities without automatic fire-extinguishing systems must submit plans to local or state fire marshals and apply for a building permit for the installation of such systems by July 1,

2004. In a letter dated September 14, 2004, the Department of Social Services announced that it would “provide expedited Medicaid reimbursement to [nursing] facilities for costs associated with sprinkler system planning and assessment work including associated permit and zoning filing costs and architectural and engineering fees. The Department will [also] consider requests for expedited reimbursement of projected costs subject to reconciliation to actual costs at a later date.”

IV. Interim Rates Restored

Public Act 04-5, AN ACT CONCERNING INTERIM RATES FOR LICENSED CHRONIC AND CONVALESCENT NURSING HOMES AND REST HOMES WITH NURSING SUPERVISION.

This Act restores the rate relief system effective April 1, 2004 through July 1, 2005. DSS may, within available appropriations, provide an interim rate if DSS determines that the increase is necessary to avoid (1) filing for bankruptcy, (2) filing for receivership, or (3) substantial deterioration of the facility's financial condition that may be expected to adversely affect resident care and the continued operation of the facility, and DSS determines that the continued operation of the facility is in the state's best interest. If a facility is sold less than five years after the effective date of a rate increase, the rate increase will be rescinded and DSS will require repayment of the amount equal to the rate increase granted. DSS may waive rescission and recovery of the interim rate for “good cause” and subject to the approval of the Office of Policy and Management. Funding for these rates is very limited.

Effective March 30, 2004

V. Residents' Rights and Assisted Living Ombudsman

Public Act 04-158, AN ACT CONCERNING THE PATIENTS' BILL OF RIGHTS FOR RESIDENTS OF NURSING HOMES AND CHRONIC DISEASE HOSPITALS

New Additions to the Nursing Home Residents' Bill of Rights

This Act revises C.G.S. §19a-550 to give residents in a nursing home or chronic disease hospital the added right to be fully informed by state or federally funded patient advocacy programs about patients' rights and requires the institutions to include this right in the written "patients' bill of rights" they give patients. The law also (1) requires the patients' bill of rights to conform to federal law concerning general patients' rights, written care plans, and quality of care; (2) adds receipt of quality care as one of the patients' rights that must be disclosed in the patients' bill of rights; (3) specifies that the written care plan under which the patient can receive psychopharmacologic drugs must be developed consistent with federal law; and (4) makes technical changes.

Assisted Living Ombudsman Pilot

A pilot program was also created, within available appropriations, to provide assistance and education to residents of managed residential communities, as defined in section 19-13-D105 of the regulations of Connecticut state agencies, who receive assisted living services from an assisted living services agency. The Office of the Long-Term Care Ombudsman is to develop and implement the pilot program in cooperation with managed residential communities and assisted living services agencies. Priority of assistance and education shall be given to residents of managed residential communities who participate in subsidized assisted living programs.

Effective October 1, 2004

VI. Nursing Home Administrator CEU Clarification

Public Act 04-221, AN ACT CONCERNING REVISIONS TO THE PUBLIC HEALTH STATUTES.

CEU Requirement

This Act makes numerous changes in the licensing laws governing health and other professions regulated by the Department of Public Health (DPH), including changes to the nursing home administrator licensure statutes. The prior law, C.G.S. §19a-515, requires a nursing home administrator to complete 40 hours of continuing education every two years. The two year time frame begins on the date after October 1, 2004 when the administrator renews his or her license. Section 18 of the Act changes that date to January 1, 2004. Therefore, the CEU requirement will apply to administrators renewing their license after January 1, 2004. To clarify, nursing home administrators must complete 40 hours of continuing education every 2 years. The 2 year time period begins when they first renew their license after January 1, 2004.

Nursing Home License Application

Section 33 of this Act also revises C.G.S. §19a-491a to require, rather than permitting, the DPH Commissioner to refuse to issue or renew a nursing home license if the applicant fails to provide the information required by law. This information includes the name and address of the nursing home's owners and officers; the criminal histories, if any, of the top administrators; financial information; and affiliations. If the Commissioner refuses to grant a license to the applicant under these circumstances, the new law requires the Commissioner to grant it to the holder of the nursing home's certificate of need (CON), if the CON holder meets all licensure requirements. If the CON holder does not,

the Commissioner must place the home in receivership. This law specifically applies to a license renewal application that is under consideration because of a DPH order.

Temporary Permits

The law also establishes a uniform 120-day temporary permit for several DPH-regulated professions. Under current law, these permits are typically valid from the time a person graduates from a training program until the results of the licensing exam are reported, although some are valid from permit filing or issue date until the exam. The 120-day standard affects physician assistants (section 1), physical therapists (section 2), graduates of foreign physical therapy schools (section 4), and physical therapy assistants (section 3); occupational therapists (section 5); radiology technicians (section 6); most registered nurses (RNs) and licensed practical nurses (LPNs) (sections 7 through 9); and massage therapists (section 12). In addition, it reduces, from 120 to 90 days, the period during which a graduate RN may work in a hospital or other organization where adequate supervision is provided pending the results of the licensure examination (section 10). The Act also provides for licensure by endorsement (i.e., without examination for people licensed in another jurisdiction) for clinical social workers (section 19), paramedics (section 37), and emergency medical technicians (EMTs) (section 38) and modifies existing licensure by endorsement and temporary licensure laws for RNs and LPNs (section 7 through 9).

Effective October 1, 2004 for sections 1,2,4, 5, 6, 7, 8, 9, 10, 12, 19; June 8, 2004 for sections 18, 37 and 38, and effective the later of June 8, 2004 or the date DPH publishes in the Connecticut Law Journal the implementation of licensing for physical therapy assistants for sections 3.

VII. Workforce Shortage

Public Act 04-196, AN ACT ADDRESSING THE NURSING SHORTAGE

This Act establishes a Connecticut nursing faculty incentive program to be administered by the Office of Workforce Competitiveness (OWC). The program must provide grants, within available funds, to higher education institutions that work with hospitals to establish or expand nursing education programs that qualify people to teach or train nursing students enrolled in a bachelor's degree or registered nurse certification program or encourage those who already are qualified to serve as full- or part-time faculty members to teach or train students enrolled in these programs at institutions of higher education. On or before January 1, 2006, the OWC must submit a status report on the establishment and operation of the incentive program to the Education, Public Health, and Higher Education and Employment Advancement committees.

The Act also requires the Department of Higher Education to conduct an assessment of the current and future capacity of the state higher education system to educate and train nurses. The Commissioner of Higher Education must report to the Public Health and Higher Education and Employment Advancement committees by January 1, 2005 on the department's assessment.

Effective June 3, 2004

Public Act 04-220, AN ACT CONCERNING ALLIED HEALTH WORKFORCE NEEDS.

This Act establishes a 16-member Connecticut Allied Health Workforce Policy Board to work with the Connecticut Career Ladder Advisory to (i) monitor data and trends in the allied health workforce, (ii) develop recommendations for the formation and promotion of an economic cluster for allied

health professions, (iii) identify recruitment and retention strategies for institutions of higher education with allied health programs, (iv) develop recommendations for promoting diversity in the allied health workforce, (v) develop recommendations regarding financial and other assistance to students enrolled in allied health programs, (vi) identify recruitment and retention strategies for allied health workers, (vii) develop recommendations about recruiting and utilizing retired nursing faculty members to teach or train students to become LPNs or RNs, and (viii) examine current nursing programs and develop recommendations to streamline the curricula. For purposes of this law, "allied health professionals" means professionals or paraprofessionals who are qualified by special training, education, skills and experience in providing health care, treatment and diagnostic services, under the supervision of or in collaboration with a licensed practitioner, and includes, but is not limited to, physician assistants, registered nurses, licensed practical nurses, certified nurse assistants, home health aides and qualified radiologists, technologists, therapists and technicians. On or before January 1, 2006 and annually thereafter, the Board must submit its findings and recommendations to the Public Health and Higher Education and Employment Advancement committees of the General Assembly.

Effective October 1, 2004

Public Act 04-253, AN ACT ADDRESSING THE NURSING SHORTAGE AND ESTABLISHING A CHALLENGE GRANT FOR REGIONAL WORKFORCE DEVELOPMENT BOARDS.

Section 1 of this Act establishes a Connecticut nursing incentive program, which the Department of Higher Education (DHE) must administer. DHE must provide financial assistance to up to four regional-community colleges that enter into partnerships with hospitals in order to secure non-state funding for a nursing

faculty expansion program. Section 3 of the Act appropriates \$200,000.00 to DHE for the Nursing Incentive Program.

Section 2 of this Act requires the OWC to establish a challenge grant program for regional workforce development boards for the purpose of expanding educational programs for low-wage, low skilled workers and training in high growth, workforce shortage areas such as health care and information technology. The OWC will provide assistance to a regional workforce development board that raises money from non-state sources for the expansion of a job training academy for the above described programs. Section 4 appropriates \$200,000.00 to OWC for this challenge grant program.

Effective June 14, 2004, except Section 2 is effective July 1, 2004.

VIII. Dental Care for Medicaid Recipients

Special Act 04-7, AN ACT CONCERNING ORAL HEALTH CARE

This Act requires the Commissioner of Public Health to establish an ad hoc committee of dental professionals for the purpose of assisting the Commissioner in examining and evaluating possible statutory changes that would improve (1) access to oral health care, particularly by persons who are underinsured, uninsured or on Medicaid, and (2) the quality of oral health care.

Effective July 1, 2004.

IX. Death Certificates

Public Act 04-255, AN ACT CONCERNING FUNERAL DIRECTORS AND VITAL RECORDS

This Act authorizes advance practice registered nurses (ARRNs), physician assistants (PAs) and registered nurses to sign the medical portion of death certificates under circumstances defined in related amendments to their respective practice acts. With respect to registered nurses, the Act specifically amends the nurse practice act provision, C.G.S. § 20-101a, to provide that when a registered nurse makes the determination and pronouncement of death, he or she (or an APRN, PA or physician) may sign the death certificate.

The Act also clarifies that the medical portion of the death certificate must be completed, signed and returned to the licensed funeral director or licensed embalmer no later than twenty-four hours after death. As under current law, failure to return the death certificate could result in a fine not to exceed \$250.

X. Nursing Home Refinancing

Public Act 04-167, AN ACT CONCERNING THE CONNECTICUT HEALTH AND EDUCATIONAL FACILITIES AUTHORITY AND THE REFINANCING OF DEBT OF CERTAIN NURSING HOMES.

This Act makes significant revisions to the Special Capital Reserve Fund (SCRF) Program for skilled nursing facilities. The new law allows CHEFA to use SCRF-backed bonds to (1) refinance or restructure, as well as to refund existing nursing home project bonds, under certain circumstances and (2) refinance or restructure, or to refund bonds issued on a pool or group obligation basis for projects with more than one participating nursing home.

The law also allows SCRF funds to reimburse bond redemption premiums paid on CHEFA bonds by providers of bond insurance or of a credit and/or a liquidity facilities. It eliminates a requirement that SCRF-backed bonds be used only to refund other SCRF-backed bonds and instead requires only that part of any refunded, refinanced, or restructured bonds be SCRF-backed bonds.

The Office of Policy and Management (OPM) secretary, as well as CHEFA and the state treasurer, are required to approve the use of SCRF-backed bonds for nursing home project bond refunding, refinancing, or restructuring.

This law changes the criteria for approving issuance of SCRF-backed bonds for such a purpose. Under current law, CHEFA and the state treasurer must determine that (1) the aggregate debt service on the new bonds will be less than that for the retired bonds and (2) the state will receive the economic benefit of the transaction. Under the new law, CHEFA, the treasurer, and the OPM secretary must determine that the state's aggregate liability for the new bonds will be less than the state's aggregate liability for the refunded, refinances or restructured bonds and that the transaction is in the state's best interest.

Under current law, for transactions undertaken in the context of a receivership, bankruptcy, or insolvency, these approvals and determinations substitute for the requirement that, before issuing any SCRF-backed bonds, CHEFA find that the project revenues are sufficient to (1) pay off the bonds used to finance it, (2) maintain any reserves it thinks advisable to secure their repayment, (3) cover the cost of maintaining and insuring the project, and (4) pay any other required project costs. The new law extends the substitute determinations and approvals to cover any retirement, refinancing, or restructuring transaction.

The law also allows CHEFA, the treasurer, and the OPM secretary to waive or modify other statutory requirements for

issuing SCRF-backed bonds to effectuate nursing home project bond retirement, refinancing, or restructuring. However, any waivers and modifications must be subject to applicable CHEFA or state tax covenants.

Effective June 1, 2004

XI. Prescriptions and ConnPACE

Public Act 04-6, AN ACT CONCERNING THE USE OF MEDICARE PRESCRIPTION DRUG DISCOUNT CARDS IN THE CONNPACE PROGRAM.

This Act requires low-income participants in the Connecticut Pharmaceutical Assistance Contract to the Elderly and Disabled (ConnPACE) program to participate in the first stage of new federal Medicare prescription drug benefits (drug discount cards) as a condition of ConnPACE eligibility. It also allows the Department of Social Services (DSS) commissioner to require higher-income ConnPACE participants to sign up for a card if that is judged cost-effective for the state. For these groups, the law wraps ConnPACE benefits around the benefits under the Medicare-endorsed discount cards, and limits the participant's combined co-payment total to no more than the participant would pay under ConnPACE (\$ 16.25 per prescription). It also places certain obligations on pharmacies participating in ConnPACE and makes a number of other statutory changes related to the discount card.

The new law also:

1. Updates the statutes to reflect the current ConnPACE income limits (\$ 20,800 for single people and \$ 28,100 for married couples), currently in regulation and adjusted annually and
2. Eliminates statutory references to higher potential ConnPACE income limits if the federal government approves a pending Medicaid waiver Connecticut submitted several years ago,

before the establishment of the new Medicare prescription drug benefits.

Public Act 04-101, AN ACT CONCERNING THE USE OF MEDICARE PRESCRIPTION DRUG DISCOUNT CARDS IN THE CONNPACE PROGRAM.

This Act revises P.A. 04-6 to (1) require the ConnPACE participants to reapply for the discount card annually; (2) make the DSS commissioner the authorized representative for these low-income ConnPACE participants for purposes of enrolling them in the federal \$ 600 transitional assistance program; and (3) allow the Commissioner, as the participant's authorized representative, to sign required forms on their behalf and enroll them in an endorsed Medicare drug discount card.

Public Act 04-101 also gives these people an opportunity to select a card designated by the Commissioner for use in conjunction with ConnPACE and requires the Commissioner to notify them of this opportunity. However, if they do not select such a card within a reasonable time, as determined by the Commissioner, the bill requires DSS to choose a card for them and enroll them in it.

Public Act 04-101 also requires the DSS commissioner to (1) evaluate the feasibility, health and safety, legal sufficiency, and cost-effectiveness of reimporting prescription drugs from Canada under the ConnPACE program; (2) evaluate the feasibility of waiving the ConnPACE co-payment for such drugs; and (3) to submit a report on the evaluation by January 1, 2005 to the Human Services, Appropriations, and Aging committees, and provide copies to the Senate and House clerks, the state librarian, and the Office of Legislative Research, as required by existing statute.

Effective April 28, 2004

ADDITIONAL SUMMARY: CONNPACE CHANGES RELATED TO DRUG DISCOUNT CARD

A new federal law (P. L. 108-173) establishes a voluntary prescription drug benefit for Medicare beneficiaries (seniors age 65 and over and younger disabled people) in two stages: a drug discount card starting in June 2004 followed by a permanent Medicare Part D prescription drug program in January 2006. The new state laws make program changes in ConnPACE to address the *first stage*, which offers Medicare beneficiaries the federally endorsed drug discount cards and provides a \$600 annual subsidy in the form of a credit on the card for lower-income participants with incomes under 135% of the federal poverty level (FPL).

Eligibility Adjustments

The state law allows people who sign up for the new two-year temporary Medicare prescription drug discount cards to still be eligible for ConnPACE (Current law bars people who are insured under a policy that provides full or partial coverage for prescription drugs once a deductible is met.)

Current law already allows people who are insured for prescription drugs but expect to exhaust their coverage soon to apply for ConnPACE before they actually run out of coverage and have their participation take effect when the other coverage runs out. The new law also applies this principle to the discount cards.

Co-payments

State law makes the discount card beneficiary responsible for payment of any coinsurance requirements under the card, as long as these coinsurance amounts are not more than the ConnPACE copays (currently \$ 16.25 per prescription) and, if they are more, requires DSS to make payments to the pharmacy to cover costs above the ConnPACE copay

amounts. (In order for them to receive the \$ 600 credit, the federal law requires these low-income people to pay per prescription coinsurance of 10% for people with incomes under 135% of FPL and 5% for those with incomes under 100% of FPL. If the prescription's cost to the beneficiary is more than the remaining available discount card subsidy, the new law specifies that the beneficiary will not be responsible for any payment above the ConnPACE copay and requires DSS in such cases to pay the pharmacy to cover the excess costs.

Requirement for Certain Low-Income Residents to Obtain Discount Card as Condition of ConnPACE Eligibility

State law now requires an otherwise ConnPACE-eligible resident who is a Medicare beneficiary and has income at or below 135% of the federal poverty level (the group that is eligible for the \$ 600 subsidy) to obtain an endorsed Medicare prescription discount card designated by the DSS commissioner as a condition of eligibility for participation in ConnPACE.

Commissioner's Option to Require Discount Card for Higher Income ConnPACE Participants

The new law also allows the commissioner, at her discretion, to require people with incomes above 135% of FPL to obtain a commissioner-designated discount card if the commissioner determines that obtaining the card is cost-effective to the state. (This group is not eligible for the \$ 600 federal credit.) In that event, the commissioner may pay for the annual discount card enrollment fees, projected to be up to \$ 30 per person.

Pharmacies' Obligations

The new state law restricts pharmacy participation in the ConnPACE program to only those pharmacies that accept all Medicare-approved discount cards that the commissioner has designated for use in conjunction with the ConnPACE program.

It also allows the commissioner to require a participating pharmacy to accept any Medicare-endorsed discount card if that is required under federal law. It also requires the pharmacy to make reasonable efforts to determine whether the client is entitled to the \$ 600 subsidy under the discount card, as it must for other types of insurance.

Public Act 04-104, AN ACT CONCERNING REPLACEMENT OF LOST OR STOLEN PRESCRIPTION DRUGS UNDER THE CONNPACE PROGRAM.

The CONNPace Program will pay for the cost of a replacement prescription if the participant signs a statement stating that the prescription drug is lost or was stolen or destroyed and the person has made a good faith effort to recover the drug. The payment for a replacement prescription is limited to twice a year for a participant. No copayment will be required for a replacement prescription. A person who willfully misrepresents that a prescription drug is lost, stolen or destroyed is subject to suspension of eligibility.

Effective July 1, 2004

Public Act 04-107, AN ACT CONCERNING ELECTRONIC TRANSMISSION OF PRESCRIPTIONS BETWEEN PRESCRIBERS AND LICENSED PHARMACIES.

This Act allows electronic data intermediaries to transfer data between a licensed prescribing practitioner and a pharmacy chosen by the patient and licensed in the United States under state or territorial law. It defines "electronic data intermediaries" as entities that provide the infrastructure to connect a prescribing practitioner's computer system or other electronic devices with those of a pharmacy to transmit (1) electronic prescription orders, (2) refill authorization requests, (3) communications, and (4) other patient care information. It

prohibits the electronic data intermediaries from altering data except as necessary for technical processing purposes.

Effective October 1, 2004

XII. Bond Funds

Nursing Homes

Public Act 04-1 (Special Session), [AN ACT INCREASING CERTAIN BOND AUTHORIZATIONS FOR CAPITAL IMPROVEMENTS](#).

This Act allows CHEFA to issue taxable bonds and notes if it finds that issuance is necessary, in the public interest and furthers CHEFA's purposes and powers. Section 27 specifically allows CHEFA to give grants and other forms of financial assistance to higher education and health care institutions, nursing homes, child care and child development facilities. Under current law, CHEFA may only give loans to such entities. It requires grants and financial assistance to be governed by written procedures adopted by the CHEFA board.

Effective June 8, 2004 for section 27

Housing

Special Act 04-02, [AN ACT INCREASING CERTAIN BOND AUTHORIZATIONS FOR CAPITAL IMPROVEMENTS](#)

This Act provides bond funds for certain capital improvement projects, including but not limited to, the development of a Congregate Housing Facility in Waterbury (Section 9) and financial assistance to nonprofit corporations to provide housing and related facilities for persons with AIDS (Section 13).

Effective July 1, 2004 for sections 9 and 13

Public Act 04-119, AN ACT CONCERNING NONDISCLOSURE OF PRIVATE TENANT INFORMATION IN A SALE OF PUBLIC HOUSING TO A PRIVATE ENTITY.

An entity purchasing a housing project from a housing authority must not disclose to the public the social security number or bank account number of any tenants contained in the tenant's lease agreement. A housing authority may not disclose to any private person, except a purchaser of a housing project owned by the authority, the social security number or bank account number of any tenant of the project without the permission of the tenant. A person who violates this law will be subject to a fine of not more than \$200.00.

Effective May 21, 2004

XIII. Americans with Disabilities Act

Public Act 04-237, AN ACT REVISING THE STATE BUILDING CODE FOR SUBSTANTIAL COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND CONCERNING MAIN ENTRANCES IN PLACES OF PUBLIC ASSEMBLY.

This Act generally requires compliance with the State Building Code rather than explicit statutory specifications regarding handicapped access. It effectively brings certain structures and parking spaces into more complete compliance with the accessibility requirements of the 1990 federal Americans with Disabilities Act (ADA) and the 1988 Fair Housing Amendments Act (FHAA). Beginning October 1, 2004, the Act modifies accessibility requirements for parking spaces designated for use by the handicapped and requires accessibility features for residential facilities to conform to the standards in the building code rather than statutory specifications. It applies to (1) parking areas, garages, and terminals constructed under a building permit application filed on and after October 1, 2004;

(2) state-assisted rental housing or rental housing projects with four or more dwelling units constructed or substantially rehabilitated under a building permit application filed on or after October 1, 2004; and (3) other residential dwellings constructed, substantially renovated, or established by change of use under a building permit application filed on or after October 1, 2004.

In addition, under prior law, handicapped parking spaces had to be (1) 15 feet wide, including three feet of cross hatch or (2) parallel to a sidewalk on a public highway. The Act requires that, beginning October 1, 2004, (1) handicapped spaces for passenger vehicles include five feet of cross hatch and (2) handicapped spaces for passenger vans measure 16 feet by eight feet, including the cross hatch. For both types of vehicles, the Act eliminates the option of being located parallel to a sidewalk as an alternative to having the hatched area.

The Act also (1) requires the state building inspector and the Codes and Standards Committee to adopt standards in the building code, rather than regulations, governing the installation, operation, maintenance, and use of inclined chairlifts; vertical wheelchair or incline lifts; and limited-use, limited-access lifts and elevators and (2) requires that these limited-use, limited-access lifts and elevators be installed in accordance with the building code if they are installed in new buildings for which a permit application is filed on or after October 1, 2004. The Act does not affect a similar joint review and approval process with respect to the existing process for requesting waivers or variances from the building code's accessibility requirements.

The Act also revises the building code exemption provisions to conform them to ADA and FHAA requirements. It eliminates exemptions for several specific use groups and building types but maintains the exemption for detached one- and two-family dwellings. It also modifies the exemption for (1) renovations, additions, or alterations to existing buildings above the street

floor being converted to use group B “Business Buildings” as defined in the building code and (2) buildings up to three stories not otherwise exempted by adding an additional qualifying condition. In the former case, the non-accessible story above the street cannot include offices of health care providers, municipal or state agencies or passenger transportation facilities, or offices located in airport terminals. In the latter case, the non-accessible floor above or below the street floor cannot include the offices noted above or mercantile facilities having five or more tenant spaces.

The Act also permits variations and exemptions from standards for exits in places of public assembly. Under prior law, any place of public assembly constructed or renovated after July 9, 2003 to increase capacity or change its occupancy had to have a main entrance to allow the emergency exit of two-thirds of the building’s capacity during an emergency. The Act limits the requirement to places constructed under a building permit application filed on or after October 1, 2004, if they have a single main entrance.

The Act allows the state fire marshal and state building inspector to grant variations or exemptions or approve equivalent or alternate compliance if they believe strict compliance would entail practical difficulty or unnecessary hardship or is unwarranted. When making such a determination, they must observe the Act’s intent and assure public safety and must put the determination in writing.

Anyone aggrieved by the officials’ decision may appeal to the Codes and Standards Committee within 14 days after the decision is mailed. Anyone aggrieved by the committee’s decision may appeal to the Superior Court.

Effective October 1, 2004 except the provision permitting variations and exemptions from standards for exits in places of assembly is effective June 8, 2004

XIV. Fire Safety Code

Public Act 04-59, AN ACT REQUIRING THE ADOPTION OF A STATE FIRE PREVENTION CODE AND CONCERNING THE STATE BUILDING CODE AND THE FIRE SAFETY CODE

This Act requires the state fire marshal to adopt a state fire prevention code based on a nationally recognized code to (1) enhance the enforcement capabilities of local fire marshals and (2) prevent fire and other related emergencies. This is in addition to the state Fire Safety Code already required by law. He must adopt the prevention code by January 1, 2005, in coordination with a nine-member advisory committee the Act creates, and revise it as necessary to incorporate revisions to the national code within 18 months after they are first published.

The advisory committee will consist of nine members appointed by the state fire marshal. Two members must be chosen from a list of Codes and Standards Committee members the committee submits. The other seven members must represent local fire marshals, deputy fire marshals, and fire inspectors, selected from a list provided by the Connecticut Fire Marshals Association.

The Act eliminates the requirement for the State Building Code to incorporate revisions of the International Code Council. It requires instead that the building and fire safety codes be based on nationally recognized model building and fire codes and requires both to be revised by January 1, 2005, and as necessary thereafter, to incorporate revisions to the model codes. It eliminates the requirement for fire safety code revisions every four years and instead requires them within 18 months after the model code revisions are first published, the same standard as for the State Building Code. By law, the state fire marshal and Codes and Standards Committee may elect

not to do the scheduled fire code revisions if they both certify the revisions are unnecessary.

Effective May 10, 2004

XV. Related Hospital Issues

Public Act 04-46, AN ACT CONCERNING HOSPITAL BILLING PRACTICES.

This Act makes technical changes to clarify when a hospital may refer a patient debt to a collection agent or initiate an action against a patient or his estate to collect fees for care provided at the hospital on or after October 1, 2003.

Effective July 1, 2004

Public Act 04-242, AN ACT CONCERNING MANDATORY LIMITS ON OVERTIME IN HOSPITALS.

This Act prohibits registered and licensed practical nurses and nurse's aides from being required to work additional hours in hospitals beyond what is scheduled, except under certain conditions.

Effective October 1, 2005

Public Act 04-164, AN ACT CONCERNING THE QUALITY OF HEALTH CARE

This Act revises C.G.S. § 19a-127n, as amended by section 123 of P.A. 03-278, setting forth the requirements for hospitals and outpatient surgical facilities to report adverse events to the Department of Public Health. This Act redefines what constitutes an "adverse event", increases from 72 hours to 7 days the time period within such adverse events must be

reported, and allows 30 days for filing a corrective action plan with DPH.

Effective July 1, 2004

XVI. Employment Issues

Public Act 04-178, AN ACT CONCERNING ENFORCEMENT OF THE PERSONNEL FILES ACT

This Act authorizes the Labor Commissioner, in connection with complaint investigations, to subpoena the employer, employee, or any person who has custody or control of the employee's medical records or personnel file or whose testimony may be relevant to the investigation. This law applies to employee personnel and medical records kept by private-sector employers under the Personnel Files Act.

Effective October 1, 2004

Public Act 04-179, AN ACT CONCERNING CONTRIBUTIONS DUE THE UNEMPLOYMENT COMPENSATION FUND.

This Act provides for the administrator of the unemployment compensation fund to make or entertain an offer of compromise for any contributions due if the offer is based on doubt regarding the employer's liability for the amount in controversy (i.e., a genuine dispute exists as to liability or the amount of liability) or the collectibility of the amount due (i.e., the employer's assets and income are less than the full amount of the employer's debts, obligations and liabilities under state and federal law).

Effective July 1, 2004

Public Act 04-47, AN ACT CONCERNING THE TIME PERIOD FOR CERTAIN WORKERS' COMPENSATION PAYMENTS.

This Act extends, from 10 to 20 days, the maximum amount of time employers have to make certain workers' compensation payments to injured employees.

Effective May 4, 2004

Public Act 04-214, AN ACT CONCERNING LUMP SUM PAYMENTS UNDER THE WORKERS' COMPENSATION ACT AND DISQUALIFICATIONS AND OFFSETS UNDER THE UNEMPLOYMENT COMPENSATION ACT

This Act eliminates the unemployment compensation benefit reduction for individuals receiving a Social Security pension and makes two changes to the definition of "willful misconduct" regarding absences from work. By law, termination from work for any statutory form of willful misconduct disqualifies an employee from eligibility for unemployment compensation. Under current law if an employee has three absences without either good cause or notice to the employer, which an employee could reasonably give under the circumstances, in an 18-month period it constitutes willful misconduct. Section 2 of the new law changes the requirement to three absences in a 12-month period and makes an absence of one day or two consecutive days without good cause or employer notification a "separate instance" of an absence.

Section 1 of the Act also authorizes workers' compensation lump sum settlements to be prorated over the life expectancy of the injured employee if the parties agree and the WC Workers' Compensation Commissioner approves.

Effective June 3, 2004 for section 1 and October 1, 2004 for section 2

XVII. Bills of Interest that Died

SB 3, An Act Concerning the Duties of the Conservator of a Person

SB 56, An Act Concerning Mandatory Overtime in Health Care Facilities, was amended to no longer pertain to mandatory overtime. The bill was passed as a revision to the SCRF program.

SB 318, An Act Concerning Nursing Home Staffing Levels

SB 319, An Act Requiring a Pain Management Protocol in Nursing Homes

SB 396, An Act Concerning the Solicitation of Charitable Funds

SB 606 An Act to Study Options and Incentives Related to LTC Funding

HB 5406, An Act Establishing a Medication Technician Pilot Program

Public Act 04-155, An Act Concerning Procedures in Medical Malpractice Actions (Vetoed due to lack of caps on damages.)

Housing Bills: All of the bills related to the segregation of young disabled residents in subsidized senior housing sites have died.