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

2002 LEGISLATIVE SESSION OF THE CONNECTICUT GENERAL ASSEMBLY

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I. Introduction

The General Assembly adjourned its regular session on May 8, 2002. A Special Session was held on May 9, 2002 to allow the General Assembly to continue discussions regarding the state budget. Because of the significant issues raised by concerns over the budget deficit, the General Assembly took until June 30, 2002 to finalize the state budget. The General Assembly then further delayed final action on the budget implementer bill until August 12, 2002.

This year the General Assembly enacted limited pieces of legislation having implications for the long-term care industry. The following is a brief summary of the new laws that were passed in the 2002 Session that relate to providers of services to the elderly, both as providers and as employers. Unless stated otherwise, all public acts become effective on October 1, 2002.

Copies of the Public Acts are available on the Connecticut General Assembly's website at <http://www.cga.state.ct.us>.

II. Summaries of Bills Passed and Signed Into Law

1. **AN ACT CONCERNING QUALIFYING INCOME FOR PURPOSES OF CERTAIN STATE PROGRAMS**, Special Act No. 02-1 (effective February 27, 2002 and applicable to property tax assessment years commencing on or after October 1, 2001, and taxable years of individuals commencing on or after January 1, 2001).

This Act applies to individuals who receive cash from Anthem, Incorporated as a result of its conversion to a stock-holder owned company, or individuals that receive stock and sell that stock in the taxable year when it was distributed or in the two following years. The cash or value of the stock must be excluded from the calculation of determining the individual's eligibility for or benefit level of the following: (1) the property tax exemption, property tax credit and rental rebate programs for which the state provides direct or indirect reimbursement; (2) programs that a municipality has the option of adopting that provide additional property tax exemptions to veterans, totally disabled persons, blind persons and elderly persons; and (3) the Connecticut Pharmaceutical Assistance Contract to the Elderly and the Disabled Program.

2. **AN ACT CONCERNING THE SALE OF PROPERTY IN THE CITY OF NORWALK FOR AN ADULT DAY CARE CENTER**, Special Act No. 02-3 (effective April 25, 2002).

This Act gives the city of Norwalk authorization to lease, sell or convey any interest in property currently being maintained for public use to a person or organization who would maintain an adult day care facility, certified by the Connecticut Association of Adult Day Care Centers, on the land.

3. **AN ACT CONCERNING A COMPREHENSIVE NEEDS ASSESSMENT OF LONG-TERM CARE**, Special Act No. 02-7 (effective July 1, 2002).

This Act requires the Office of Policy and Management to conduct a comprehensive assessment of the unmet long-term care needs in Connecticut and to project future demand for long-term care service. A review of the Department of Mental Retardation's waiting list must be included. The Act does not specify a timeframe for completion of the comprehensive assessment.

4. **AN ACT CONCERNING LATE OR MISSING DATA AND THE OFFICE OF HEALTH CARE ACCESS**, Public Act No. 02-6 (effective April 3, 2002).

This Act allows the Office of Health Care Access (OHCA) to refuse to accept a letter of intent for a certificate of need or a certificate of need application from any facility that failed to submit any required data or information to OHCA, submitted incomplete data, or failed to file required data in a timely manner. Prior to the refusal, OHCA must provide written notice that identifies the missing or incomplete data or information. After receiving the notice, the person or facility has 10 business days to provide the required data or information. After the Commissioner of Health Care Access determines that all the required data has been submitted, he must notify the

party submitting the data within 15 days regarding whether the certificate of need letter of intent or application is refused.

This Act further specifies that this provision does not preclude or limit OHCA from taking any other allowed action concerning incomplete or inaccurate data submissions.

5. **AN ACT CONCERNING THE PREVENTION OF INFLUENZA AND PNEUMONIA IN NURSING HOMES**, Public Act No. 02-10 (effective October 1, 2002).

This Act requires the Commissioner of Public Health to adopt regulations for the prevention of influenza and pneumococcal disease in nursing homes. The regulations must assure that each nursing home patient is (1) adequately immunized against influenza and vaccinated against pneumococcal disease at time of admission to a nursing home, and (2) annually immunized against influenza. The regulations must also provide exemptions for patients: (1) for whom immunization is medically contraindicated; or (2) who object on religious grounds.

6. **AN ACT INCREASING THE MINIMUM WAGE**, Public Act No. 02-33 (effective July 1, 2002).

This Act increases the minimum wage from $6.70 per hour to $6.90 per hour on January 1, 2003, and to $7.10 per hour on January 1, 2004.

7. **AN ACT REQUIRING THE REPORTING OF PRESCRIPTION ERRORS AND REQUIRING CERTAIN CONTINUING EDUCATION FOR PHARMACISTS**, Public Act No. 02-48 (effective October 1, 2002).

This Act requires the consumer protection commissioner to adopt regulations, with the advice and assistance of the Pharmacy Commission, to implement a quality assurance program that:

1) Is designed to detect, identify and prevent prescription errors;

2) Has written policies and procedures;

3) Includes directions that require the pharmacy to communicate prescription errors to the prescribing practitioner and to the patient, the patient's caregiver or the appropriate family member if the patient is deceased or unable to comprehend;

4) Describes the method of correcting the error or reducing its impact; and

5) Requires that records of errors be maintained for at least three years and made available for inspection by the Commissioner of Consumer Protection within 48 hours in any case where the commissioner is investigating a report of a prescription error.

A "prescription error" is defined as a clinically significant act or omission relating to the dispensing of a drug that results, or may reasonably be expected to result, in injury or death to a patient.

This Act also requires each pharmacy to display a 8-by 10-inch sign in a conspicuous location. The sign must state "If you have a concern that an error may have occurred in the dispensing of your prescription you may contact the Department of Consumer Protection, Drug Control Division, by calling (Department of Consumer Protection's toll-free number)." The pharmacy must also include this statement on the receipt or in the bag or packaging of each prescription.

This Act also amends the annual continuing education requirements for pharmacists. Under the current law, pharmacists must receive at least 15 hours of continuing education each year with at least five of the hours earned by attending a live presentation. This Act specifies that at least one of these five live hours must be on pharmacy or drug law.

8. **AN ACT CONCERNING EXTENSION OF HEALTH BENEFITS UNDER GROUP INSURANCE PLANS**, Public Act No. 02-55 (effective October 1, 2002).

This Act amends current law to require group comprehensive health care plans to offer policyholders and their dependents the option to continue group coverage during illness, injury, and certain disabilities, *regardless of the employee's or dependent's eligibility for other group insurance*.

Under this Act, a group comprehensive health plan must make this option available to (1) employees and their dependants during the employee's absence from work due to illness and injury, or (2) employees, their spouses, and dependents who are totally disabled on the date the group policy terminates.

Coverage for absence due to illness or injury must continue through the period of illness or injury or for up to twelve months from the beginning of such absence. Coverage for the totally disabled must continue, without premium payment, while the disability lasts for twelve months following the calendar month in which the policy is terminated, if a claim for coverage is made within one year of the plan's termination.

9. **AN ACT CONCERNING EXPERIMENTAL DRUG USE BY PERSONS WITH MENTAL RETARDATION**, Public Act No. 02-58 (effective October 1, 2002).

This Act further restricts the circumstances under which guardians of mentally retarded persons may consent to certain experimental medical procedures. It prohibits a plenary guardian or limited guardian of a mentally retarded person from consenting on behalf of the ward to the performance of any experimental biomedical or behavioral medical procedure or participation in any biomedical or behavioral experiment unless the following criteria are met:

1) The procedure or experiment has been approved by a recognized institutional review board (as defined by 45 CFR 46, 21 CFR 50 and 21 CFR 56) which is not part of the Department of Mental Retardation;

2) It has been endorsed or supported by the Department of Mental Retardation; and

3) It has been approved for the ward by the ward's primary care physician.

10. **AN ACT CONCERNING WELL DRILLERS, PHARMACIES, ELECTRONIC SHELF-PRICE LABELING, HEALTH CLUBS, THE LIQUOR CONTROL ACT, BUILDING PERMITS FOR TRADESPERSONS, HOME IMPROVEMENT BONDS, LEMON LAW FUNDING AND SHORTHAND REPORTERS**, Public Act No. 02-82 (effective October 1, 2002).

Section 2 of this Act amends the current law clarifying that to receive a pharmacist's license, an individual must have earned a degree from a college or school of pharmacy that was, at the time of graduation, an entry-level professional pharmacy degree.

11. **AN ACT REQUIRING NOTIFICATION OF VOTING OR VOTING REGISTRATION TO CONSERVATORS OF RESIDENTS OF CERTAIN INSTITUTIONS, MAIL-IN VOTER REGISTRATION PROCEDURES, AND SERVICE BY MUNICIPAL EMPLOYEES ON MUNICIPAL BOARDS AND COMMISSIONS**, Public Act No. 02-83 (effective October 1, 2002).

Section 1 of this Act requires administrators of certain institutions and residential facilities to use their best efforts to notify probate court-appointed conservators and guardians when voting or voting registration opportunities are presented to the facility residents. The Act's notice requirement applies to institutions as defined in Conn. Gen. Stat. § 9-159q(a) to include: veterans' health care facilities, residential care homes, health care facilities for the handicapped, nursing homes, rest homes, mental health facilities, educational institution infirmaries, licensed residential facilities for people with mental retardation, and licensed community residential facilities for adults with mental illness. The definition of "institution" does not specify continuing care residential communities, chronic disease hospitals, adult day care centers, or other senior housing establishments.

The administrator of the institution must use his best efforts to give written notice to conservators and guardians at least seven days before a resident is: (1) presented with any voter registration or voting opportunity regarding a primary, referendum or election (e.g., an application for admission as an elector or an absentee ballot); or (2) brought to a polling place to vote in person. The administrator may also give notice to a person with a power of attorney for a resident. Notice is not required when a member of the resident's family provides the resident with an absentee ballot or brings the resident to voting polls.

The notice must indicate that the resident is entitled to register to vote and to vote unless the probate court determines that the resident is incompetent to do so, or the registrars of voters (or their designees) jointly conclude at a supervised voting session that the resident declines to vote or they are unable to determine how the resident desires to vote.

The notice must also specify that a resident who needs assistance to vote because of blindness, disability, or inability to read or write may receive assistance from any person the resident chooses.

Section 2 of this Act permits the guardian or conservator to file a petition in probate court to determine whether the resident is competent to vote. The probate court must hold a hearing on the petition within fifteen days after the petition is filed.

Be aware that the Conn. Gen. Stat. §§ 1-159g and 9-159r currently address issues regarding procedures for supervised absentee voting by patients at the above-referenced institutions.

12. **AN ACT CONCERNING THE LONG-TERM CARE ADVISORY COUNCIL**, Public Act No. 02-100 (effective October 1, 2002).

This Act adds eight new members to the Long-Term Care Advisory Council, specifically:

1) A personal care attendant appointed by the Speaker of the House of Representatives;

2) The president of the Family Support Council, or the president's designee;

3) A person who cares for a disabled person in a home setting and is appointed by the president pro tempore of the Senate;

4) Three persons with a disability appointed one each by the majority leader of the House of Representatives, the majority leader of the Senate and the minority leader of the House of Representatives;

5) A legislator who is a member of the Long-Term Care Planning Committee; and

6) One member who is nonunion home health aide appointed by the minority leader of the Senate.

This Act also amends the current law by requiring the Long-Term Care Advisory Council to seek recommendations from persons with disabilities or persons receiving long-term care services who reflect the socio-economic diversity of the State.

13. **AN ACT AUTHORIZING THE DESIGNATION OF A PERSON TO ASSUME OWNERSHIP OF A MOTOR VEHICLE UPON THE DEATH OF THE OWNER AND AUTHORIZING THE DESIGNATION OF A PERSON FOR CERTAIN OTHER PURPOSES**, Public Act No. 02-105 (motor vehicle provision effective January 1, 2003; remainder of Act effective October 1, 2002).

This Act allows any person who is at least 18-years old to execute a document designating another person (who also must be at least 18-years old) to make certain decisions on behalf of the maker of the document and gives the designee certain rights and obligations with respect to the maker of the document. The document must be signed and dated before a notary and be witnessed by at least two people. The document can be revoked at any time by the maker, or by a person in the maker's presence and at the maker's direction, by burning, canceling, tearing, or otherwise obliterating the document, or by the execution of a subsequent document by the maker.

The rights given to the designee with regards to a patient, who is the maker of the document, include:

1. Giving written informed consent for medical or surgical procedures;

2. Making an anatomical gift of all or part of decedent's body (the statute gives a prioritized list of the people allowed to make this decision; the spouse of the deceased person is listed first, and a person designated under this Act is listed second);

3. Receiving notice 30 to 60 days before the involuntary transfer of a patient from one room to another within a nursing home;

4. Consulting with the physician, nurse or other staff of a nursing home regarding the transfer of the patient to another room in the nursing home;

5. Being assured privacy for visits with a patient in a nursing home facility (the right to share a room if both the patient and the "designee" are inpatients at the same facility is only given to married couples);

6. Meeting in a nursing home facility with the families of other patients in the facility to the extent meeting space is available;

7. Receiving at least 30 days written notice if a patient who is a Medicaid recipient is to be transferred from a private to a nonprivate room, and being involved in the consultative process to ensure that the transfer is done with the least disruption to the patient;

8. Consulting with a physician regarding any statement made by the patient to determine the patient's wishes regarding the removal of life support;

9. Having any oral communication with a physician concerning any aspect of the patient's health care recorded in the patient's medical record;

10. Receiving an emergency phone call at work if the patient has died, or is ill or seriously injured;

11. Attending court proceedings without losing his or her job if the patient is the victim of a homicide; and

12. Being designated a dependent of the patient if wholly or partially dependent upon his income at the time of the patient's death.

14. **AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR AMBULANCE SERVICES**, Public Act No. 02-124 (effective October 1, 2002).

This Act eliminates the $500 cap on the ambulance service benefit requirement in certain individual and group health insurance policies and instead makes the cap whatever the Department of Public Health establishes as the maximum allowable rate. The Act also expands ambulance coverage for group policy holders, requiring coverage for medically necessary ambulance services, while previously coverage was only required if it was an emergency and the insured was admitted as an inpatient.

This Act requires both individual and group policies that cover ambulance services to pay ambulance providers directly, so long as the provider has complied with the Act and is not paid from another source. The Act also adds health care centers to the list of providers that are exempt from the direct payment provision if the centers have a contract providing for direct payment with the ambulance provider.

15. **AN ACT CREATING A PROGRAM FOR QUALITY IN HEALTH CARE**, Public Act No. 02-125 (adverse reporting provision effective July 1, 2002; remainder of Act effective October 1, 2002).

This Act requires the Department of Public Health (DPH) to develop a quality of care program. DPH must develop a set of data by which to measure the performance of health care facilities, and a reporting system. Initially, this Act focuses its requirements on hospitals; the inclusion of other health care facilities in subsequent years is subject to the recommendations of the Quality of Care Advisory Committee.

This Act creates the Quality of Care Advisory Committee (the "Advisory Committee") that will advise DPH on the development of the quality of care program. The Advisory Committee will include members who represent and are appointed by the following organizations: Connecticut Hospital Association (4 members); Connecticut Nursing Association (1 member); Connecticut

Medical Society (2 members); Connecticut Business and Industry Association (2 members); Home Health Care Association (1 member); Connecticut Association of Health Care Facilities (1 member); Connecticut Association of Not-for-Profit Providers for the Aging (1 member); AFL-CIO (2 members); Connecticut Pharmaceutical Association (1 member); federally designated state peer review organization (1 member); and, the Office of Health Care Access. In addition, the Connecticut Association of Health Plans will appoint two members who represent licensed health plans, and the Commissioner of Public Health will appoint one member who represents consumers of health care services and one member who represents a school of public health. The Advisory Committee also will include the Commissioner of Public Health or his designee (who will serve as chairperson), the Commissioner of Social Services or her designee, and the Secretary of the Office of Policy and Management or his designee.

On or before June 30, 2003, and annually thereafter, the Commissioner of Public Health must report on the quality of care program to the Public Health Committee and to the Governor. The reports must include activities of the quality of care program during the previous year and a plan of activities for the following year.

On or before April 1, 2004, the Commissioner of Public Health must prepare a publicly-available report that compares all licensed hospitals in the state based on quality of care measurements which are developed under the program.

Under this Act, DPH is directed to seek out funding for the purpose of implementing the provisions of the Act, which will be implemented upon receiving the funding.

This Act also requires hospitals and outpatient surgical facilities to report adverse events to the Department of Public Health. An adverse event is an injury that was caused by or is associated with medical mismanagement and that results in death or measurable disability.

16. **AN ACT CONCERNING NOTICE AND PUBLIC HEARING PRIOR TO A NURSING HOME CLOSURE**, Public Act No. 02-135 (effective October 1, 2002).

A. **Notification Requirements for Health Care Facilities Applying for a Certificate of Need (Section 1)**

This section establishes notification requirements for health care facilities that plan to undertake any of the following activities requiring a certificate of need (CON): (1) transfer all or part of its ownership or control prior to being initially licensed; (2) introduce any additional function or service into its program of care or expand an existing function or service; or (3) terminate a service or substantially decrease its total bed capacity.

Prior law required any nursing home, rest home, residential care home, or intermediate care facility for the mentally retarded to request permission from the Department of Social Services ("DSS") by filing a detailed letter of intent. Under this Act, these facilities also must contact the

Office of Long-Term Care Ombudsman regarding a proposal concurrently with filing the letter of intent.

This section further requires any facility that intends to terminate a service or substantially decrease its total bed capacity to provide written notice to all patients, guardians or conservators, or legally liable relatives, and to conspicuously post such notice at the facility, concurrent with submission of the facility's letter of intent. The notice must contain the following information:

1) The projected date the facility will be submitting its CON application;

2) That only the DSS may grant, modify, or deny the application, and may do so within ninety days;

3) A brief description of the reason(s) for submitting a request for permission;

4) That no patient shall be involuntarily transferred or discharged within a facility pursuant to state and federal law because of the filing of the CON application;

5) That all patients have a right to appeal any proposed transfer or discharge; and

6) The name, address and phone number of the office of the Long-Term Ombudsman and local legal aid office.

B. **Consideration of Additional Bed Requests from Certain Nursing Facilities (Section 2)**

Currently there is a CON moratorium on additional nursing home beds until June 30, 2007, with some exceptions. Section 2 of this Act adds a new exception that permits DSS to consider a CON request from a licensed nursing facility, provided that the request is for no more than twenty beds and that the applicant is a licensed nursing home that does not participate in the Medicaid or Medicare programs, provides health care and admits residents without regard to their income or assets, and demonstrates to DSS's satisfaction that it is financially able to provide lifetime care without Medicaid participation. DSS is permitted to accept or approve only one request for additional beds based on this new exception.

C. **Public Hearings for CON Requests (Section 3)**

Under prior law, the Commissioner of Social Services must conduct a public hearing on CON proposals involving capital expenditures or acquisition of major medical equipment. This Act removes the mandatory public hearing requirement and makes the holding of such public hearings permissive. In addition, this Act clarifies that public hearings extend to CON applications involving requests for termination or addition of services or a change of ownership or control, and specifies that the Commissioner may hold a public hearing on one application or on more than one application if the applications are of a similar nature.

17. **AN ACT CONCERNING EMPLOYMENT PROTECTION FOR CRIME VICTIMS AND PERSONS WHOSE CRIMINAL RECORDS HAVE BEEN ERASED**, Public Act No. 02-136 (effective October 1, 2002).

This Act protects crime victims in the workplace and enables them to participate in aspects of crime investigation without penalty. Under this Act, employers are barred from penalizing, threatening, coercing, or denying employment to employees who are crime victims and who attend court proceedings or otherwise assist police in the investigation, or who have protective orders issued on their behalf. Furthermore, employers who fail to comply with these provisions are guilty of criminal contempt and are subject to a maximum fine of five hundred dollars, thirty days of imprisonment, or both.

Additionally, under this Act, employees and prospective employees may not be denied employment, discharged or caused to be discharged, or discriminated against in any manner by any employer, employer's agent, representative on the basis that the employee or prospective employee had *a prior arrest, criminal charge, or conviction, the records of which have been erased pursuant to certain specified Connecticut laws*. It requires employment application forms that question an applicant's criminal history to clearly notify the applicant that disclosure of criminal history of this type is not required. The form must indicate that any person whose records have been erased shall be deemed to have never been arrested and may so swear under oath. Furthermore, this section requires that the form indicate to the applicant that records subject to erasure are those records pertaining to a finding of delinquency or that a child was a member of a family with service needs, an adjudication as a youthful offender, a criminal charge that has been dismissed or nolled, or a criminal charge for which the person received an absolute pardon.

Lastly, this Act requires that the portion of an employment application that contains an applicant's criminal history record be available only to the members of a company's personnel department, or if there is no such department, then to the individual in charge of employment and the employee, member, or agent that interviews the applicant.

18. **AN ACT CONCERNING ADJUSTMENTS TO THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2003, STATE REVENUES AND OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR,** Public Act No. 02-1, May Special Session (sections 118 through 123 effective July 1, 2002).

This Act makes various additions and revisions to the laws governing reimbursement of prescription drugs under state funded programs, including Medicaid, state-administered general assistance, general assistance, ConnPACE and Connecticut AIDS drug assistance programs (the "state programs").

Section 118 permits the Commissioner of Social Services to establish maximum allowable costs to be paid under the state programs for generic prescription drugs based on, but not limited to, actual acquisition costs. *Note: This section was further amended by Section 53 of May Special Session, P.A. 02-7 as discussed below.*

Section 119 establishes a mandatory $30,000.00 fine against any long-term care facility that violates or fails to comply with current requirements to return unused prescription drugs dispensed in the facility to vendor pharmacies as required under C.G.S. § 17b-363a. Before imposing the fine, the Commissioner must notify the facility of the alleged violation and the penalty and permit the facility to request a review. The facility must request the review within 15 days of receipt of the notice of violation and the imposition of the penalty must be stayed pending the Department's review.

The Commissioner may impose the penalty against a facility regardless of whether a change in ownership has taken place since the violation if (1) the Department issued the required notice of violation and penalty prior to the effective date of the change of ownership and record of the notice is readily available in a central registry maintained by the Department.
Section 120 allows the Commissioner of Social Services to establish a voluntary mail order option for any maintenance prescription drug covered und the state programs.

Section 121 establishes a Medicaid Pharmaceutical and Therapeutics Committee within the Department of Social Services as required under federal law. The Committee will consist of 11 members appointed by the Governor – five physicians, five pharmacists and one consumer representative. The Committee shall be responsible for adopting a preferred drug list and reviewing all drugs on the preferred drug list on an annual basis to ensure that the preferred drug list provides for medically appropriate drug therapies for Medicaid patients. The Committee shall also make recommendations to the Department of Social Services regarding the prior authorization of any prescribed drug covered by Medicaid.

Section 122 clarifies that the Department of Social Services shall pay a professional fee of $3.85 per prescription to licensed pharmacies that dispense drugs to recipients of the state programs.

Section 123 allows the Commissioner of Social Services to implement a pharmaceutical purchasing initiative by contracting with an established entity for the purchase of drugs through the lowest pricing available for state program recipients. The contracting entity must have an established pharmaceutical network and a demonstrated capability of processing the volume of prescriptions anticipated for state program recipients. *Note: This section was further amended by Section 56 of May Special Session, P.A. 02-7 as discussed below.*

19. **AN ACT CONCERNING STATE EXPENDITURES,** Public Act No. 02-7, May Special Session (effective June 30, 2002 unless otherwise stated below).

A. **ConnPace Program (Section 15); effective September 1, 2002.**

This section amends Conn. Gen. Stat. § 17b-491 to adjust the copayment amounts for individuals eligible to participate in the ConnPACE program and provides for an annual inflation adjustment.

B. **Nursing Home Medicaid Rate (Section 17).**

This section amends Conn. Gen. Stat. § 17b-340(f)(4), as amended by section 52 of Public Act 01-2 of the June Special Session and sections 95 and 129 of Public Act 01-9 of the June Special Session. The section delays the two percent (2%) increase in the nursing home rate for six months so that the increase becomes effective January 1, 2003. Note that if a facility would have been issued a lower rate effective July 1, 2002 due to an interim rate status or agreement with the Department of Social Services, the lower rate will be issued effective July 1, 2002 and such rate will be increased two percent (2%) effective January 1, 2003.

C. **Medicaid Coverage for State Medical Assistance and General Assistance Programs (Sections 19 and 20).**

Sections 19 and 20 amend Conn. Gen. Stat. § 17b-257 and 17b-259 to eliminate coverage for eye care, optical hardware and optometry care, podiatry, chiropractic, natureopathy, and home health care for (1) recipients of the state medical assistance program if such services are available pursuant to the home and community-based waiver and (2) recipients of the general assistance program., respectively.

D. **Eligibility of Qualified Aliens for State-Funded Programs (Sections 22 through 25).**

Sections 22 through 25 extend eligibility of qualified aliens for state-funded medical assistance, Connecticut home-care program for the elderly state-wide, state-funded temporary family assistance or cash assistance and the food assistance program to June 30, 2003.

E. **Assisted Living Services Pilot Programs (Section 27 and 28).**

Sections 27 and 28 allow the Commissioner of Social Services to establish and operate two assisted living services pilot programs – one program for 50 persons and another program for 25 persons – on or after January 1, 2003. Eligibility requirements for the 50 person pilot program include (1) residency in a managed residential community, (2) ineligibility for assisted living services under another assisted living pilot program, and (3) eligibility for services under *the Medicaid waiver portion of the Connecticut home-care program for the elderly*. Eligibility requirements for the 25 person pilot program include (1) residency in a managed residential community, (2) ineligibility for assisted living services under another assisted living pilot

program, and (3) eligibility for services under *the state-funded portion of the Connecticut home-care program for the elderly*. The Commissioner must report on the pilot program no later than January 1, 2005 to the joint standing committees relating to matters of public health, human services, appropriations and the budgets of state agencies.

F. **National Medical Support Notices (Sections 38 and 40 through 44); effective October 1, 2002.**

Sections 38 and 40 through 44 establish the requirements governing the National Medical Support Notice ("NMSN") required under federal law to be used by state support agencies to enforce health care coverage support provisions in child support orders. Section 38 specifies that the NMSN serves as notice to an employer that (1) the employee is obligated to provide employment based health care coverage for the child, (2) the employer may be required to withhold employee contributions required by the health plan for the child's coverage, and (3) the employer must forward the NMSN to the administrator of the health plan for enrollment determination. Upon receipt of a NMSN from a child support enforcement agency, the employer must respond within 20 business days after the date of the NMSN by either returning the NMSN to the agency indicating why health care coverage is unavailable or transferring the notice to the health plan administrator. The employer also must notify the agency whenever the employee's employment terminates. Both the administrator of the health plan and the insurer have related obligations.

G. **Dual Medicare and Medicaid Certification of Nursing Homes (Section 46).**

This section amends Conn. Gen. Stat. § 17b-346(a) to eliminate the Medicare distinct part certification. Moreover, it requires all chronic and convalescent nursing homes (except such nursing homes restricted to use by AIDS patients), chronic disease hospitals associated with nursing homes, and rest homes with nursing supervision that participate in Medicaid to participate equally in Medicare.

H. **Medicaid Rates for Ambulance Services (Section 47).**

This section amends Conn. Gen. Stat. § 19a-177(9), as amended by section 51 or Public Act 01-4 of the June Special Session to establish rates for licensed and certified ambulance services for the following services: "advanced life support assessment," "specialty care transports," and intra-municipality mileage. This section also changes all references to the "National Health Care Inflation Index" to the "Medical Care Services Consumer Price Index."

I. **Durable Medical Equipment (Section 48).**

This section amends section 8 of Public Act 01-2 of the June Special Session to clarify that the Commissioner of Social Services may authorize payment for used durable medical equipment to a vendor or supplier of durable medical equipment enrolled as a medical equipment, devices and supplies provider under the Medicaid program.

J. **State Insurance Coverage for Eligible Persons with HIV/AIDS (Section 49).**

This section amends Conn. Gen. Stat. § 17b-256, as amended by section 9 of Public Act 01-4 of the June Special Session, to require the Commissioner of Social Services to purchase and maintain insurance policies that provide a full range of HIV treatments and access to comprehensive primary care services for persons with AIDS or HIV infection who are otherwise eligible.

K. **Prescriptions for Medicaid Recipients (Section 50).**

This section amends Conn. Gen. Stat. § 17b-274 eliminating the 50 cents per prescription professional dispensing fee paid to a pharmacist for substituting a generically equivalent drug product for a drug prescribed to a Medicaid recipient. This section also requires a pharmacist to obtain prior authorization from the Department of Social Services before dispensing any initial maintenance drug prescription that is for less than 15 days and for which there is a chemically equivalent generic substitution. Such prior authorization will not be necessary if the prescription is for atypical antipsychotic drugs that the person is taking at the time the pharmacist receives the prescription.

L. **Consumer-Oriented Long-Term Care Website (Section 51).**

This section requires the Office of Policy and Management to develop a consumer-oriented Internet website that provides comprehensive information on long-term care options available in Connecticut and includes direct links and referral information regarding long-term care resources such as private and nonprofit organizations offering advice, counseling and legal services. The Office must develop the website within existing budgetary resources and in consultation with the Select Committee on Aging, the Commission on Aging and the Long-Term Care Advisory Council.

M. **Maximum Allowable Cost List (Section 53).**

This section further amends Section 118 of Public Act 02-1, May Special Session and requires the Department of Social Services to implement and maintain a procedure to review and update the maximum allowable cost list at least annually and to report annually on such matters to the committees of the General Assembly relating to appropriations and the budgets of the state agencies.

N. **Medicaid Rate for Physician Services to Dually Eligible Patients (Section 54).**

This section requires the Commissioner of Social Services to grant a rate increase to physicians who provide services to patients who are dually eligible for Medicare and Medicaid. Such increases, however, are subject to available Medicaid appropriations.

O. **Personal Needs Allowance (Section 55).**

This section provides that the personal needs allowance component of the state supplement of the adult standard of federal Supplemental Security Income Program will be permanently increased by one-half of the percentage increase in the January 2003 annual cost-of-living increase, if any, in the federal Supplemental Security Income Program.

P. **Pharmaceutical Purchasing Initiative (Section 56).**

This section further amends section 123 of the May Special Session P.A. 02-1 by requiring the Department of Social Services to report annually on the pharmaceutical purchasing initiative to the joint standing committee of the General Assembly on appropriations and the budgets of state agencies.

Q. **Medicaid Non-emergency Medical Transportation (Sections 60 and 61).**

Section 60 permits the Commissioner of Social Services, in consultation with the Secretary of the Office of Policy and Management, to submit an amendment to the Medicaid state plan or to implement changes needed to reduce expenditures for Medicaid non-emergency medical transportation on or before June 30, 2003. Implementation of such changes may not eliminate any category of eligible need other than reimbursement for personal vehicle use.

Section 61 amends Conn. Gen. Stat. § 17b-276 to specify that the Department of Social Services shall be the only state agency to set emergency and non-emergency medical transportation fees or fee schedules for any transportation services that are reimbursed by the Department for medical assistance programs, including but not limited to general assistance and Medicaid.

R. **Electric Assistive Mobility Devices (Sections 67 and 68).**

These sections establish safety and operation requirements governing the use of "electric assistive mobility devices." Such devices must have reflectors, a system that will allow for a controlled stop, and may not be operated at speeds greater than 15 miles per hour. Operators are permitted to use the devices for travel on sidewalks and for crossing highways, subject to certain restrictions.

S. **Workers' Compensation Claims (Section 69).**

This section amends Conn. Gen. Stat. § 31-230 provides for an alternative method for calculating a base period for purposes of workers' compensation claim. Subject to certain restrictions, if an individual is not eligible for benefits using the standard method for calculating a base period, the individual's base period will be the four most recently completed calendar quarters prior to the individual's benefit year.

T. **Renewal of Professional Licenses (Section 73).**

This section requires the Department of Public Health to renew individual professional licenses, which becomes void while the license holder is on active duty in the armed forces, within 6 months of discharge from active duty and upon completion by the license holder of any continuing education or refresher training required to renew a license that otherwise had not become void. These renewal provisions do not apply to National Guard members on active duty for annual training that is part of the regularly scheduled obligations and do apply if there is a pending professional disciplinary action or unresolved complaint against an individual's license.

U. **Medicaid Payment to Providers for Patients' Drugs (Section 88); effective September 1, 2002.**

This section amends Conn. Gen. Stat. § 17b-279 to eliminate the requirement that the Commissioner of Social Services consider the reasonableness of the generic incentive dispensing fee when verifying the propriety and reasonableness of payments to providers for drugs provided to Medicaid patients.

V. **Hospice Residence Pilot (Section 96).**

This section amends Conn. Gen. Stat. § 19a-122b, authorizing until October 1, 2006, a state-licensed or federally-certified hospice to operate a pilot residence for terminally ill persons, for the purpose of providing hospice home care arrangements, including hospice home care services and supplemental services, within a homelike atmosphere to patients who would otherwise receive the care from family members. Any hospice that operates such a residence must cooperate with the Commissioner of Public Health to develop standards for the licensure and operation of such facility.

W. **Home Health Services for Dually Eligible Patients (Section 98).**

This section will apply to a demonstration project established by the Commissioner of Social Services pursuant to federal law, 42 U.S.C. § 1359b-1 [sic], for the purpose of improving the efficacy of the process for payment of claims for home health services provided to individuals dually eligible for Medicare and Medicaid. For any such demonstration project, the following will apply: (1) eligible recipients of home health services will not be liable for reimbursement to the state for cost of the services, and (2) the Commissioner of Social Services may sanction a provider of the services up to $50,000.00 for each failure to file claims or medical records as required by the demonstration project. Sanctions may be recouped from ongoing payments to the provider. In addition, the Commissioner may waive a recipient's liability for reimbursement to the state for home health services provided from October 1, 1997 to September 30, 2000 in accordance with an agreement with Centers for Medicare and Medicaid.

X. **Optional Medicaid Services (Section 104).**

This section requires the Commissioner of Social Services to submit an amendment to the Medicaid state plan to implement provisions for optional services under the Medicaid program.

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