

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

**2001 LEGISLATIVE SESSION OF THE
CONNECTICUT GENERAL ASSEMBLY**

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2001 LEGISLATIVE SUMMARY

I. INTRODUCTION

The General Assembly adjourned its regular session on June 6, 2001. Special sessions were held on June 25-29, 2001 and July 23, 2001 to a number of additional bills, including the Department of Social Services implementer. A veto session was held on July 23, 2001.

This year the General Assembly enacted many different pieces of legislation that have implications for the long-term care industry. Following is a brief summary of the new laws that were passed in the 2001 Session that relate to providers of services to the elderly. Unless stated otherwise, all public acts become effective on October 1, 2001.

Sections 64 and 65 of June Special Session, Public Act No. 01-2 will be of particular interest to providers. This public act removes all references to "level of care" in the statutes governing bed reservations. The practical effects of this change in the state law will be addressed in more detail in a forthcoming advisory being prepared by Wiggin & Dana.

If you require additional information on any law summarized in this report, or any other legislation, we encourage you to contact Maureen Weaver at (860) 297-3706 or (203) 498-4384 or MWEAVER@WIGGIN.COM, Michelle Wilcox DeBarge at (860) 297-3748 or MDEBARGE@WIGGIN.COM, or Catherine P. Baatz at (860) 297-3748 or CBAATZ@WIGGIN.COM.

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

THIS MEMORANDUM IS INTENDED TO SUMMARIZE LEGISLATION ONLY; IT IS NOT INTENDED TO PROVIDE LEGAL ADVICE. ANYONE CONCERNED ABOUT THE APPLICATION OF A LAW TO PARTICULAR CIRCUMSTANCES SHOULD NOT RELY ON THIS MEMORANDUM, BUT INSTEAD CONSULT LEGAL COUNSEL.

II. SUMMARIES

A. PROVIDER RELATED LEGISLATION

1. AN ACT CONCERNING THE ADMISSIBILITY OF RECORDS AND REPORTS OF CERTAIN EXPERT WITNESSES AS BUSINESS ENTRIES, Public Act No. 01-15, effective October 1, 2001.

This Act broadens the scope of an existing law that allows for the introduction in personal injury, child support, and family relations matters of signed reports and bills of certain health care professionals as "business entry" evidence that establish the type and cost of treatment a party received without requiring the health care professional to testify. Under this Act, this evidence may be introduced in any civil court actions. This Act applies to all cases pending on and after October 1, 2001 and continues to cover the same health care professionals, which includes treating physicians, dentists, physical therapists, podiatrists, psychologists, emergency medical technicians, and optometrists, among other practitioners.

2. AN ACT CONCERNING RECEIVERSHIP OF RESIDENTIAL FACILITIES FOR MENTALLY RETARDED PERSONS, Public Act No. 01-18, effective October 1, 2001.

This Act modifies the definition of the term "residential facility for mentally retarded persons" to include staffing and other program resources associated with the facility for purposes of receivership of the facility.

3. AN ACT CONCERNING THE DEFINITION OF MENTAL DISABILITY AND THE CODE OF FAIR PRACTICES, Public Act No. 01-28, effective October 1, 2001.

This Act defines the term "mental disability" and includes it in Connecticut laws that prohibit discrimination by state agencies, private employers, labor unions, employment agencies, and public accommodations providers. This Act also adds marital status and learning disability as prohibited bases for discrimination in Connecticut laws governing state employment, services, and programs. Finally, the Act requires state agencies to comply with the federal Americans with Disabilities Act (the "ADA") when providing services, programs, and activities if the federal law gives people with disabilities greater rights and protections than does Connecticut law.

4. AN ACT CONCERNING THE CHOICES HEALTH INSURANCE ASSISTANCE PROGRAM, Public Act No. 01-39, effective May 31, 2001.

This Act combines the statutes governing the CHOICES health insurance assistance program and the Connecticut Medicare consumers guide and updates them to reflect current practice and the cooperative roles in the program of the Center for Medicare Advocacy and the area agencies on aging. CHOICES, located within the Department of Social Services' ("DSS") Division of Elderly Services, is a federally recognized and mainly federally funded program. The program offers senior citizens health insurance information and counseling, as well as information on Medicare plans, including managed care plans.

The Act (1) specifies that the program must be a comprehensive Medicare advocacy program that not only provides information and advice for Medicare beneficiaries, but also legal representation where appropriate in the appeals process; (2) allows non-attorneys to give advice on Medicare benefits and other health insurance matters on the program's toll-free phone number; (3) specifies that the program must include any functions DSS deems necessary to conform to federal grant requirements; (4) defines and codifies the CHOICES program, which includes the health insurance assistance program; and (5) makes several minor and technical changes.

Under the prior law, the insurance commissioner, who cooperates in collecting data for the Connecticut Medicare consumers' guide, must give the governor and three specified legislative committees (one of which is the Public Health Committee) an annual list of Medicare organizations that have not filed timely data with him. The Act (1) replaces the Public Health Committee with the Human Services Committee and (2) requires the commissioner to submit the list, by June 1, 2001, in conjunction with the managed care ombudsman.

5. AN ACT REQUIRING LANDLORDS TO PROVIDE A RECEIPT FOR CASH PAYMENTS, Public Act No. 01-44, effective October 1, 2001.

Under this Act, landlords must provide a written receipt, to include date, amount, and reason for payment, for cash rent payments. The existing law requires a written receipt only upon the tenant's request.

6. AN ACT CONCERNING BENEFICIARY INTERESTS IN TRUST MATTERS, Public Act No. 01-69, effective October 1, 2001.

This Act authorizes people in trust-related matters to represent the interests of a minor, an incapacitated or unborn person, or someone whose identity or location is unknown and not reasonably ascertainable if (1) the representative has a substantially identical interest with respect to the particular question or dispute,

(2) there is no conflict of interest between the representative and the person being represented, and (3) the person being represented is not otherwise represented. The Act specifies the circumstances under which these people's interests can be represented by conservators, guardians, agents, trustees, executors, administrators, and parents. Notice to a person authorized by the Act to represent someone has the same effect as notice to the person being represented. The representative's consent is binding on the represented person unless the person objects before the consent would otherwise have become effective. The Act expressly provides that "represent" does not include serving as legal counsel in a trust matter if the representative is not a licensed attorney.

The Act allows a court to appoint a guardian *ad litem* to represent a minor, incapacitated, or unborn person, someone whose identity or location is unknown, or others authorized to be represented by the Act if the court determines that the individual's interest is not represented or that the representation may be inadequate. It allows a guardian *ad litem* to (1) act on behalf of the person represented concerning any trust-related matter the Act covers, whether or not a judicial proceeding is pending, and (2) consider general benefits accruing to the living members of the represented individual's family when making decisions.

7. AN ACT CONCERNING THE LICENSING OF PSYCHOLOGISTS, Public Act No. 01-86, effective October 1, 2001.

Under this Act, the Department of Public Health ("DPH") may issue a psychologist's license by endorsement to a person having a current certificate of professional qualification from the Association of State and Provincial Psychology Boards ("ASPPB"). ASPPB issues a "certificate of professional qualification" ("CPQ") to psychologists licensed in the U.S. or Canada who meet standards of educational preparation, supervised experience, and examination performance and who have practiced for a minimum of five years and have no history of disciplinary action. Under existing law, DPH may also grant a psychologist's license by endorsement to an applicant who is a currently practicing and competent practitioner with a license from another state with standards substantially equivalent to Connecticut's.

8. AN ACT CONCERNING THE SUBSTANCE ABUSE REVOLVING LOAN FUND AND A TRAUMATIC BRAIN INJURY REGISTRY, Public Act No. 01-90, effective October 1, 2001.

Section 2 of this Act requires the Department of Public Health ("DPH") to establish a registry of traumatic brain injury ("TBI") patients. DPH and authorized researchers are allowed to use the registry data; however, they cannot disclose any personally identifiable information about a TBI patient without the written consent of the patient or a legally authorized representative. The registry

data is exempt from Freedom of Information Act disclosures. DPH must promulgate regulations to define the type of data that hospitals will be required to provide to the registry, who may use the registry, and how the registry may be used. DPH may contract with a nonprofit TBI association to implement and administer the registry.

9. AN ACT DEFINING HEALTH CARE PROVIDER FOR PURPOSES OF PROMPT PAYMENT OF HEALTH INSURANCE CLAIMS, Public Act No. 01-111, effective October 1, 2001.

Under Connecticut law, insurers must pay claims within 45 days of receiving a health care provider's request for payment filed according to the insurer's practices. This Act clarifies that, for purposes of prompt payment of health insurance claims, the term "health care provider" includes physicians and surgeons, chiropractors, naturopaths, podiatrists, athletic trainers, physical therapists, occupational therapists, alcohol and drug counselors, radiographers and radiologic technicians, midwives, nurses, nurse's aides, dentists, dental hygienists, optometrists, opticians, respiratory care practitioners, pharmacists, psychologists, marital and family therapists, clinical social workers, massage therapists, dietician-nutritionists, acupuncturists, and professional counselors. The term also includes licensed health care institutions such as hospitals; residential care homes; health care facilities for the handicapped; chronic and convalescent nursing homes; rest homes with nursing supervision; home health care agencies; homemaker-home health aide agencies; mental health facilities; substance abuse treatment facilities; student infirmaries; facilities providing services for the prevention, diagnosis, and treatment of human health conditions; and residential facilities for the mentally retarded and certified by Medicaid as intermediate care facilities for the mentally retarded.

10. AN ACT CONCERNING THE REMOVAL OF A FIDUCIARY, Public Act No. 01-114, effective October 1, 2001.

This Act expands the reasons for which the Probate Court may remove a fiduciary to include the following:

- lack of cooperation among co-fiduciaries that substantially impairs the administration of the estate;
- removal will best serve the beneficiaries' interests because of the unfitness, unwillingness, or persistent failure of the fiduciary to administer the estate effectively;
- there has been a substantial change of circumstances; or
- all beneficiaries request removal and the court finds that (1) removal best serves the interests and is consistent with the material purposes of their governing instrument and (2) a suitable co-fiduciary or successor fiduciary is available.

The existing law also provides that the Probate Court may remove a fiduciary who becomes incapable of executing the trust, neglects to perform his duties, wastes the estate, or does not furnish any additional or substitute probate bond ordered by the court.

11. AN ACT CONCERNING THE LONG-TERM CARE PLANNING COMMITTEE, Public Act No. 01-119, effective July 1, 2001.

This Act broadens the scope of the Long-Term Care Planning Committee (the "Committee") to include the establishment of a long-term care plan for all persons in need of long-term care rather than only the elderly. It adds two members to the Committee: one representative of the Department of Children and Families ("DCF") appointed by the DCF commissioner, and the executive director of the Office of Protection and Advocacy for Persons with Disabilities or a designee. Under the Act, the Committee also must evaluate long-term care issues in light of the U.S. Supreme Court decision in *Olmstead v. L.C.*, which requires states to place people with disabilities in community settings rather than in institutions when (1) it is appropriate; (2) the individual does not oppose the transfer to a less restrictive setting; and (3) the community placement can be reasonably accommodated.

The Act also changes the committee's legislative reporting deadline for its long-term care plan from every two years to every three years; requires the plan to serve as a guide for state agencies' developing and modifying programs that serve people needing long-term care; and requires any state agency, when developing or modifying any program that, wholly or partially, assists or supports people with long-term care needs to include, to the extent feasible, provisions that support care-giving by family members and other informal caregivers and promote consumer-directed care.

12. AN ACT CONCERNING AUTOPSY ARRANGEMENTS AND STANDARDIZED INFORMED AUTOPSY CONSENT, Public Act No. 01-122, effective October 1, 2001.

Current law prohibits a physician from performing an autopsy without the consent of the person who assumes custody of the body unless the autopsy is performed by the Chief Medical Examiner's Office. By January 1, 2002, the Department of Public Health ("DPH"), in consultation with the chief medical examiner, must develop minimum requirements for an informed consent form that: (1) includes clear information naming the institution and the department that will perform the autopsy; (2) gives the family, friend, or other person, who have been designated in writing before a notary or court officer to assume custody of the body, an opportunity to limit the autopsy or express concerns about it; (3) provides for

documented and witnessed consent; and (4) contains procedures for communicating this information orally. The Act specifies that these minimum requirements shall not be deemed to be state regulations.

Existing law allows the consenting person to require a physician who is not affiliated with the institution where the deceased individual died to perform or attend the autopsy. This Act allows the consenting person to arrange for the performance of an autopsy in any institution that routinely performs autopsies and by any physician qualified to do so at that institution. The Act also clarifies that the consenting person is responsible for paying for the autopsy and associated services.

The Act requires institutions that perform autopsies to include this information in their patient's bill of rights and all written descriptions of their autopsy policy. A copy of the patient's bill of rights must be given to the person assuming custody of the body before signing an autopsy consent form. The information must be in a language the person understands. DPH's minimum requirements for an informed autopsy consent form must include procedures for the person receiving these documents to acknowledge receipt in writing or orally.

The Act subjects anyone who fails to provide the proper information for consent, and also potentially anyone who fails to pay a nonaffiliated physician, to a fine of up to \$500.

Under existing law, consent can be given in writing or by telegram or telephone, and does not need to be witnessed. The Act specifies that, after December 31, 2001, consent can be communicated in person; by mail, telephone, or courier; or electronically, as long as it is witnessed and documented. The Act also eliminates the requirement that a physician maintain a record of any consent given by telephone for at least three years.

Finally, the Act adds a person, who the deceased designated in writing before a court officer, to the list of individuals who may consent to an autopsy.

13. AN ACT CONCERNING RECOMMENDATIONS FOR AND REFUSALS OF THE USE OF PSYCHOTROPIC DRUGS BY CHILDREN AND UTILIZATION REVIEW DETERMINATIONS RELATED TO MENTAL AND NERVOUS CONDITIONS, Public Act No. 01-124, effective October 1, 2001.

This Act requires utilization review companies, when making determinations related to "mental or nervous conditions," to report them separately from all other reported determinations. By law, utilization review companies must annually file with the insurance commissioner the number of determinations not to certify an

admission, service, procedure, or stay extension and the outcome of appealed determinations.

14. AN ACT CONCERNING DISPOSITION OF REMAINS OF DECEASED PERSONS, Public Act No. 01-131, effective October 1, 2001.

This Act creates a procedure for adults to authorize cremation of their remains and to prevent that authorization to be changed after the person's death. The person authorizing cremation must sign and date the form, and two witnesses must attest in writing that he was of sound mind when he signed it. The authorization must include the name, home address, and phone number of the individual's spouse, or if there is none, the next of kin or other person designated to take custody of the individual's remains. This person's status must be acknowledged in writing.

After the individual's death, the person designated on the form must be notified (presumably by the funeral director) of the planned cremation during the legally required 48-hour waiting period. If the person designated on the form is unavailable, the director must ask a probate court judge to give custody and control of the remains to some suitable person. Under the Act, a funeral director may obtain a cremation certificate and permit and cremate the body in good faith reliance on a cremation authorization if (1) a good faith effort has been made to notify the spouse, next of kin, or designated custodian, or (2) a probate court has issued an order. The funeral director's reasonable decisions and actions that are warranted under the circumstances cannot be challenged.

The Act excludes disposing of the bodies of executed criminals or people whose relatives or representatives do not claim them. The Act further specifies that it does not affect the powers and duties of the chief medical examiner to conduct autopsies, investigate and report the causes of death, and dispose of remains after his work is done.

15. AN ACT CONCERNING DEATH OF A TENANT, Public Act No. 01-133, effective October 1, 2001.

This Act permits a landlord, who has complied with a lease that includes the tenant's death as a ground for termination, to send a notice to the last-known address of the next of kin upon the death of the sole tenant in a dwelling unit. The notice must (1) be sent both by regular mail, postage prepaid and by certified mail, return receipt requested, (2) be written in clear and simple language, (3) include the landlord's telephone number and address, and (4) state that the tenant has died, the landlord intends to remove belongings from the dwelling unit and re-rent the premises, and (5) the next of kin has 60 days to reclaim the belongings or the landlord will dispose of them.

The Act requires all landlords who follow its provisions to file an affidavit in probate court regarding the deceased tenant and the deceased tenant's personal belongings. The Act requires landlords to file an affidavit with the probate court when the sole tenant in a dwelling unit dies. The affidavit must include the deceased tenant's name and address, the date he died, the terms of his lease, and the names and addresses of any known next of kin. If the court receives a request to determine the validity of a will or appoint an administrator of a decedent's estate within 55 days of the date the affidavit is filed, it must immediately notify the landlord. A landlord who receives this notice cannot dispose of the tenant's property or re-rent the dwelling unit as indicated above.

The Act authorizes a landlord who follows the Act's provisions to dispose of the tenant's property if (1) no relative appears to claim it, or (2) no one asks the probate court to take any action on the deceased tenant's will within the time specified in the notice. A landlord must inventory the belongings left in a dwelling unit by a deceased tenant no earlier than 30 days after the date he files the affidavit and file a copy of the inventory with the court. The landlord must leave the tenant's belongings in place for at least 15 days after the date he takes the inventory. After 15 days, the landlord can store the belongings, and after 30 days the state marshal can put them on the adjacent sidewalk, street, or highway.

Landlords who follow the Act's provisions are protected against an action for entering a dwelling unit without consent. The Act specifies that it does not relieve a landlord of the duty to comply with the landlord and tenant laws, other than the law regarding security deposits, when the landlord knows or should reasonably know that the dwelling unit has not been abandoned. Under existing law, a security deposit, minus any deductions for damages, belongs to the tenant who paid it or, in the event of death, the tenant's estate.

16. AN ACT CONCERNING THE RIGHTS OF PERSONS UNDER SUPERVISION OF THE COMMISSIONER OF MENTAL RETARDATION AND GUARDIANSHIP OF PERSONS WITH MENTAL RETARDATION, Public Act No. 01-140, effective October 1, 2001.

This Act makes a number of changes affecting the services, treatments, program needs, placements, and transfers for persons with mental retardation and those who can make decisions for them. The revisions include, among others, the following:

- The Act specifies that a plenary or limited guardian of a person with mental retardation, and where appropriate, the person with mental retardation, is the primary decision-maker concerning his well being, within the limits of the authority granted by the probate court.

- The Act requires the guardian to consult with the person with mental retardation and appropriate family members when possible, and the decisions must not conflict with the legal rights of the person with mental retardation to humane and dignified care and treatment.
- The Act also allows the parent, guardian, conservator, or other legal representative of a person with mental retardation to object to determinations by the Department of Mental Retardation (“DMR”) concerning certain medications, procedures, and placements, including determinations by DMR that a community placement is inappropriate.

17. AN ACT CONCERNING PLANS FOR THE REMEDIATION OF MEDICAL AND SURGICAL ERRORS, Public Act No. 01-145, effective October 1, 2001.

This Act requires each licensed hospital, outpatient surgical facility, and outpatient clinic to make available to the Department of Public Health, upon request, a copy of its medical and surgical error remediation plan required by the Joint Commission on the Accreditation of Healthcare Organizations (“JCAHO”). A medical and surgical error remediation plan sets forth a facility’s strategy for substantially reducing or eliminating medical errors and establishes related reporting requirements.

18. AN ACT CONCERNING VITAL RECORDS, Public Act No. 01-163, effective October 1, 2001.

This Act makes a number of substantive and technical changes in the statutes on vital records, affecting both the Department of Public Health (DPH) and local registrars of vital statistics. The Act: (1) specifies that vital records include fetal death certificates in addition to birth, marriage, and death certificates and makes the necessary conforming changes; (2) allows DPH and local registrars to transmit and register vital records electronically and defines terms to address vital records in both electronic and paper format; (3) makes a number of changes concerning birth certificates addressing access, confidentiality, data usage, copies, paternity acknowledgements, name changes, and adoption; (4) allows certain people to access Social Security numbers on marriage licenses and death certificates; (5) allows funeral directors and embalmers licensed in states with reciprocal agreements with Connecticut to undertake a number of activities here; (6) requires DPH to develop uniform procedures concerning vital records and modifies its regulatory authority; (7) clarifies how DPH must administer the state system of registration of births, marriages, deaths, and fetal deaths; (8) standardizes the fees for vital record, including setting the same \$2 fee for recording fetal deaths as for other vital records; and (9) eliminates outdated or contradictory provisions.

19. AN ACT CONCERNING PRIVATIZED PUBLIC RECORDS, Public Act No. 01-169, effective October 1, 2001.

This Act broadens the definition of the term "public agency" under the Freedom of Information Act's (FOIA) provisions to include an individual, business, or organization's records and files that relate to the entity's performance of a governmental function. It defines "governmental function" as the administration or management of a public agency's program authorized by law to be performed by an entity (1) receiving public agency funding; (2) participating in policy formation and decisions connected to the program that binds the agency; and (3) where the public agency is significantly, but not necessarily directly or continuously, involved in or regulating the entity's administration or management.

The entity's performance must derive from a legally authorized contract of more than \$2.5 million. The contract must provide that the (1) agency is entitled to copies of the entity's covered records and files, and (2) records are subject to FOIA and disclosable to the public. The Act excludes entities that merely provide goods and services to an agency and have no responsibility to administer or manage the agency's program. An agreement between a state agency and a foundation established to support the agency is not considered a contract.

The Act also expands the definition of a public record to include all records to which a public agency is entitled by law or contract. Anyone who wants to inspect or copy records must direct the request to the specific agency. Further, pursuant to FOIA, any complaints must go to the Freedom of Information Commission. The Act also requires public agencies to comply with open meeting requirements.

20. AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR CANCER CLINICAL TRIALS, HEARING AIDS FOR CHILDREN AGE TWELVE AND YOUNGER, PAP SMEAR TESTS, COLORECTAL CANCER SCREENING AND MAMMOGRAMS, PSYCHOTROPIC DRUG AVAILABILITY AND MEDICAID COVERAGE FOR MAMMOGRAMS, Public Act No. 01-171, effective October 1, 2001, except the cancer clinical trials provisions take effect January 1, 2002.

This Act:

1. requires certain group and individual health insurance policies to cover routine patient care costs associated with cancer clinical trials for treatment or palliation and Phase III trials for prevention that involve therapeutic intervention;

2. prohibits the use of drug formularies, lists of covered drugs, or other restrictions on obtaining prescription drugs for mental health treatment;
3. expands coverage of mammograms by certain individual and group health insurers by requiring coverage of an annual mammogram beginning at age 40 instead of 50;
4. requires health insurers to cover pap smear tests conducted as part of primary and preventive services that participating in-network obstetrician-gynecologists must by law provide female enrollees who choose to have direct access to such providers; and
5. requires certain individual and group health insurance policies to cover colorectal cancer screening, including (a) an annual fecal occult blood test and (b) a colonoscopy, flexible sigmoidoscopy, or radiologic imaging.

The cancer clinical trial and colorectal screening coverage requirements apply to hospital and medical coverage offered by HMOs and policies that pay for (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, and (4) hospital or medical services. Mammogram coverage requirements for individual policies also apply to "accident only" and "limited benefit health" coverage. Coverage applies to policies delivered, issued for delivery, renewed, amended, or continued in the state on or after October 1, 2001, except for cancer clinical trial coverage, which applies to such policies beginning January 1, 2002.

21. AN ACT CONCERNING INSURANCE DATA REPORTING REQUIREMENTS, SMALL EMPLOYER HEALTH PLAN AVAILABILITY, AND LICENSING REQUIREMENTS FOR INDIVIDUALS WHO MAKE FINAL UTILIZATION REVIEW DETERMINATIONS, Public Act No. 01-174, as amended by Public Act No. 01-95 (section 179), effective October 1, 2001.

Section 5 of this Act requires that any final utilization review decision not to certify an admission, service, or procedure or extension of stay for an enrollee within Connecticut, excluding claims under the workers' compensation act, must be made by a physician, nurse or other licensed health professional under the authority or a physician, nurse or other licensed health professional who has a current Connecticut license with the Department of Public Health. Likewise, any review that upholds a final determination not to certify in the case of an enrollee in Connecticut must be conducted by a physician or practitioner who is a specialist in the field related to the condition that is the subject of the appeal and

must be performed under the authority of a physician or practitioner who has a current Connecticut license from the Department of Public Health.

22. AN ACT CONCERNING IDENTIFICATION REQUIRED FOR CHECK CASHING AND CONCERNING STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS, Public Act No. 01-175, Sections 17 and 31 are effective July 1, 2001.

Section 17 of this Act provides that the Commissioner of Public Health must require each initial applicant for a license to establish, conduct, operate or maintain a nursing home in Connecticut to submit to state and national criminal history records checks.

Section 31 of the Act sets forth the procedures and fees for the criminal history checks. Any request for a criminal history check must be requested from the State Police Bureau of Identification ("State Police"). DPH must arrange for the fingerprinting of the applicant or for conducting any other method of positive identification required by the State Police or the FBI, for state and national criminal history records checks, respectively. To request a state criminal history records check, the fingerprints or other identifying information must be sent to the State Police which will conduct the check. To request a national criminal history records check, the fingerprints or other identifying information must be sent to the State Police which will in turn send the information to the FBI, or, if permitted by the FBI, the fingerprints or other identifying information must be submitted directly to the FBI.

The Commissioner of Public Safety may charge DPH a fee for the state criminal history records check performed by the State Police or the fee charged by the FBI for a national criminal history records check. In turn, DPH may charge the applicant a fee equal to the amount paid by DPH.

Under prior law, the Department of Public Health ("DPH") historically has requested state criminal history records checks on any new entity or new person, including stockholders or principals (e.g., directors, officers, trustees, or managing and general partners, etc.) and any person or entity that has 10% or greater ownership in the new owner, who files an application for a nursing home license and who has not had any prior health care holdings in Connecticut. DPH submits a request for a criminal background check to the Connecticut State Police and to the state police in any other state(s) where the new applicant has had or currently has health care holdings. DPH has not charged the applicant for the state criminal background checks.

Currently, DPH is reviewing the revised language of this Act to determine what changes, if any, it will need to make to the process for requesting state criminal history records checks as well as how it will implement the national criminal

history records checks with the Federal Bureau of Investigation ("FBI"). Among possible changes may be institution of a fee for the national criminal background check. In the meantime, DPH has indicated that it will continue to perform the state criminal background checks as it has been doing.

- 23. AN ACT CONCERNING PROPERTY TAX COLLECTION**, Public Act No. 01-178, effective October 1, 2001 and applicable to assessment years beginning on or after that date.

This Act increases, from \$5 to \$25, the amount of property taxes due that towns' legislative bodies may waive and specifies that the tax may be waived before its due date.

- 24. AN ACT CONCERNING THE PENALTY FOR FALSE STATEMENTS ON APPLICATIONS FOR FINANCIAL ASSISTANCE FROM QUASI-PUBLIC AGENCIES**, Public Act No. 01-184, effective October 1, 2001.

This Act requires that certain quasi-public agencies have financial assistance applicants sign, under the statutory penalty of false statement, the application or other document used by the quasi-public agencies to make financial assistance decisions. Quasi-public agencies can impose the requirement with respect to any application, agreement, financial statement, certificate, or other document sent to the agencies regarding loans, mortgages, guarantees, investments, grants, leases, tax relief, bond financing, or other types of credit or financial assistance they provide.

The Act applies to the following quasi-public agencies: Connecticut Development Authority, Connecticut Innovations, Inc., Connecticut Housing Authority, Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Resource Recovery Authority, Connecticut Hazardous Waste Management Service, Connecticut Coastline Port Authority, Capital City Economic Development Authority, and the Connecticut Lottery Corporation. The law already allows the Connecticut Housing Finance Authority to impose the requirement with respect to any program it administers.

The statutory penalty for making a false statement is imprisonment for up to one year, a maximum \$2,000 fine, or both. A person is subject to the penalty if the person (1) intentionally makes a false statement under oath or on a form warning him that these statements are punishable, (2) intends the statement to mislead a public servant performing his duties, and (3) does not believe that the statement is true.

25. AN ACT CONCERNING PROTECTIVE SERVICES FOR ELDERLY PERSONS, Public Act No. 01-209, effective July 1, 2001.

This Act requires the Department of Social Services ("DSS") commissioner to investigate, rather than evaluate, allegations of elder abuse, neglect, exploitation, and abandonment and makes conforming technical changes. It authorizes the commissioner of DSS to perform the following investigative steps:

1. Interview the potential elderly victim alone, unless the potential victim refuses consent or the commissioner decides that an interview is not in his best interest (these interviews are conducted by DSS' Elderly Protective Services Division staff);
2. Seek a court order to stop a caretaker from interfering with the division staff's ability to interview the elderly individual alone ;
3. Subpoena witnesses, take testimony under oath, and compel the production of documents necessary and relevant to the investigation;
4. Ask the attorney general to seek a court order as appropriate to enforce the investigation provisions; and
5. Subpoena confidential records needed for an investigation if the commissioner has reasonable cause to believe the elderly person is not capable of giving consent or if the person's caretaker has refused consent and the commissioner has reason to believe the caretaker has abused, neglected, exploited, or abandoned the person and ask the attorney general to seek a court order to enforce this provision.

The Act also provides that financial institutions may disclose otherwise confidential financial information with the consent of an elderly person or his representative. The financial institution has no obligation to determine the person's capacity to consent.

The Act further requires the probate court, when the commissioner is seeking conservatorship in an elder abuse case, to approve the commissioner's request for an examination by an independent physician, psychologist, or psychiatrist if the examination is needed to determine whether the person is capable of managing his affairs and in the person's best interests. When an examination is deemed necessary, the court must order the examination regardless of whether the elderly person or his caretaker has already submitted a medical report.

Finally, the Act also allows people who have reasonable cause to suspect or to believe such abuse is happening to report it to the commissioner. Under the prior law, people could make reports only if they have reasonable cause to believe the abuse is happening.

26. AN ACT CONCERNING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2003, AND MAKING APPROPRIATIONS THEREFORE, June Special Session, Special Act No. 01-1, effective July 1, 2001 unless otherwise indicated.

According to the Office of Fiscal Analysis ("OFA"), the legislature allocated an additional \$250,000 in each year of the biennium to enhance adult day care rates. The monies are included in the total Medicaid allocation. The Department of Social Services ("DSS") further clarified the methodology used to allocate the additional funding. By dividing the total additional funding by an "estimated" total number of days of adult day care services per year, DSS calculated an additional \$1.10 per day for adult day care services. Therefore, effective July 1, 2001, the daily reimbursement rate for adult day care services equals the prior year rate times 2% plus \$1.10. The increases are reflected in the Home Care Service Fee Schedule published by DSS on July 17, 2001 as follows:

Approved Medical Model Providers (Full Day)	\$53.59
Non-Medical (Social) Model Providers	\$50.32
Half Day	\$32.81

27. AN ACT CONCERNING THE EXPENDITURES OF THE DEPARTMENT OF SOCIAL SERVICES, June Special Session Public Act No. 01-2, implements DSS Budget for biennium beginning July 1, 2001 and ending June 30, 2003, effective July 1, 2001 unless otherwise indicated.

A. Rate Relief for Staffing Enhancements (Sections 1 and 2). Effective October 1, 2001.

These sections enable the Commissioner of Social Services to provide rate relief, with available appropriations, to enhance the staffing of chronic or convalescent nursing homes and rest homes with nursing supervision. These provisions apply to the fiscal years ending June 30, 2003, and June 30, 2004. For the first year, fiscal year ending June 30, 2003, the Commissioner must give priority in the use of available funding to facilities with staffing levels below two hours per patient day for nurses' aides, three-quarters of an hour per patient day for registered and licensed nurses, and two and three-quarters hours per patient per day total. For the second year, fiscal year ending June 30, 2004, the Commissioner must give priority in the use of available funding to facilities with staffing levels below two hours per patient day for nurses' aides, one hour per patient day for registered and licensed nurses, and three hours per patient per day total.

B. Availability of Assets for Purposes of Medicaid Eligibility (Section 3).

This section provides that for purposes of determining Medicaid eligibility, an asset is considered "available" if it is "actually" available to the applicant, or if the applicant has the "legal right, authority or power to obtain the asset or have it applied for the applicant's general or medical support." Under this section, if the terms of a trust provide for the support of an applicant for Medicaid, and a trustee refuses to make a distribution from the trust, then the trust is not considered "unavailable." This section also provides that if an applicant for Medicaid transfers an asset in exchange for other valuable consideration, then the transfer is allowable to the extent the value of the other consideration is equal to or greater than the value of the asset.

C. Medicaid Penalty Periods for Transfers of Assets (Section 4).

Under this section, the Commissioner of Social Services must seek a waiver of federal law to change the Medicaid penalty period for asset transfers of less than fair market value. Currently, the penalty period begins in the month that the applicant or recipient transferred the assets. In the waiver, the Commissioner will propose that the penalty period begin in the month the applicant is found otherwise eligible for Medicaid coverage. This section will only apply to transfers that occur on or after the effective date of the federal waiver.

D. Notice to Department of Social Services Regarding Probate Court Determination of Spousal Support (Section 5)

This section affirms that the Department of Social Services shall be the sole agency to determine eligibility for assistance and services administered by the Department, including when probate courts act on spousal support requests in conservatorships. Specifically, this section provides that any person filing an application with a probate court for spousal support must certify to the court that a copy of the application has been sent to the Commissioner of Social Services. The Commissioner has a right to receive notice of any hearings and to appear at the hearings to present the Commissioner's position as to such an application.

E. Federal Waiver for Medicaid Coverage for Used Durable Medical Equipment (Section 8). Effective July 2, 2001.

This section requires the Commissioner of Social Services to seek a waiver from federal law to provide Medicaid coverage for used durable medical equipment.

F. Medicaid Coverage of Medicare Part B Premiums (Section 9), Effective July 2, 2001.

Repealed and replaced by Public Act No. 01-9 § 106. See discussion under Public Act No. 01-9.

G. Annual Income Limits for ConnPACE (Section 22).

This section amends section 17b-492 of the General Statutes to increase annual income limits for participation in ConnPACE. The section provides for annual income limits after April 1, 2002 of \$20,000 or less for unmarried individuals and \$27,100 or less (combined with spouse) for married individuals. This section further provides that if ConnPACE is granted federal financial participation, then after July 1, 2002, the annual income limits for unmarried individuals will be \$25,800 or less and \$34,800 for married individuals (combined with spouse).

H. Employer-Sponsored Health Insurance (Section 26). Effective July 2, 2001.

This section requires the Department of Social Services (“DSS”), in collaboration with the Offices of Health Care Access (“OHCA”) and Policy and Management (“OPM”), to prepare a plan for the purchase of employer-sponsored health insurance for adults or children. The plan may include the following recommendations: (1) a sliding scale of co-premium subsidies for employees, their spouses, or children with family incomes up to 300% of the federal poverty level, (2) minimum benefit standards for participating employer-sponsored health plans, (3) the fiscal impact on state spending, including anticipated reductions in other health-related expenditures, (4) maximizing federal State Children’s Health Insurance Program allocations and Medicaid reimbursement, (5) a review of the potential for appropriate co-premium subsidies during periods of unemployment, (6) infrastructure and resource requirements for implementing the program, and (7) a timeline to ensure the program begins by January 1, 1003. DSS must submit the plan to the Human Services, Public Health, Insurance and Real Estate, and Appropriations Committees of the General Assembly by March 1, 2002.

I. Pilot Program for Connecticut Home-Care Program for the Elderly (Section 31).

This section removes the July 1, 2001 termination date for the state-funded pilot program allowing not more than ten persons to receive services under the Connecticut Home-Care Program for the Elderly (1) provided such persons would be eligible except that their monthly income exceeds the amount allowed under the program by no more than \$100.00 and formerly received such services, and (2) only after an evaluation and a determination that such person would otherwise require care in a long-term care facility.

J. Assisted Living Demonstration Program in HUD Housing (Section 36).

This section amends section 8-206e of the General Statutes by increasing the number of United States Department of Housing and Urban Development,

Section 202 or Section 236 elderly housing developments that may provide assisted living services from one to four. This section also provides that for purposes of the demonstration program, multiple properties with overlapping board membership or ownership may be considered a single applicant.

K. Demonstration Project for Subsidized Assisted Living Services (Section 37).

This section amends section 17b-347e of the General Statutes, which establishes a demonstration project to provide subsidized assisted living services for persons residing in affordable housing. This section removes the June 8, 2001 deadline by which the demonstration project may accept applications.

L. State Rates for Residential Care Homes (Section 38).

This section amends section 17b-340(h) of the General Statutes, which sets forth the formula for state payments to residential care homes. This section provides that beginning with the fiscal year ending June 30, 2002, the allowable salary of an administrator of a residential care home with 60 beds or less shall be \$37,000. The section further provides that for the fiscal year ending June 30, 2002, the Department of Social Services must base residential care home rates upon the increased allowable salary of an administrator, regardless of whether such amount was expended in the 2000 cost report upon which the rates are based. Finally, this section provides that beginning with the fiscal year ending June 30, 2002, the inflation adjustment for residential care home rates shall be increased by 1%.

M. Nursing Home Medicaid Rates (Section 52), as amended by Public Act No. 01-9 (Section 95).

Under this section, for the fiscal year ending June 30, 2002, each chronic and convalescent nursing home and rest home with nursing supervision shall receive a rate that is 2 1/2% more than the rate the facility received in the prior fiscal year. For the fiscal year ending June 30, 2003, such facilities shall receive rates that are 2% more than the rates they received in the prior fiscal year. This section further requires that the Commissioner of Social Services add fair rent increases to any other rate increases that the Commissioner establishes for a facility that has undergone a material change in circumstances related to fair rent.

N. Extension of Moratorium on Nursing Home Beds (Section 53)

This section extends the moratorium on additional nursing home beds to June 30, 2007.

O. Conversion of Rest Home with Nursing Supervision Beds to Chronic and Convalescent Nursing Home Beds (Section 54)

This section provides that for the period July 1, 2001 to June 30, 2007, rest homes with nursing supervision that are under common ownership with chronic and convalescent nursing homes in the same or immediately adjacent building may convert their rest home with nursing supervision beds to chronic and convalescent nursing home beds in accordance with section 17b-352 of the General Statutes. Such bed conversions must not result in an increase in cost to the state of more than 12% of the amount previously paid to the facility annually for both levels of care. This restriction does not apply to bed conversion requests filed on or before May 1, 2001. The Commissioner is required to publish proposed regulations implementing this section no later than December 31, 2001.

P. Adult Payment Standards for the State Supplement Program (Section 56)

This section provides that adult payment standards for the state supplement to the Federal Supplemental Security Income Program for the fiscal years ending June 30, 2002 and June 30, 2003 shall not be increased.

Q. Certificate of Need Requests for Continuing Care Facility Beds and for Nursing Home Bed Transfers (Section 63)

This section amends section 17b-355 of the General Statutes, which sets forth the various factors that the Commissioner of Social Services must consider in certificate of need ("CON") applications. The section provides that when the Commissioner considers a request to add nursing home beds to a continuing care facility, the Commissioner shall only consider the need for beds for current and prospective residents of the continuing care facility. With respect to requests for relocation of nursing facility beds, this section provides that the commissioner shall consider whether there is a demonstrated bed need in the towns within a 15 mile radius of the town in which the beds are proposed to be located. Bed need must be based on the recent occupancy percentage of area nursing facilities and the projected bed need for no more than five years into the future at 97½% occupancy using the latest official population projections by town and age as published by the Office of Policy and Management and the latest available state-wide nursing facility utilization statistics by age cohort from the Department of Public Health. The section provides that the Commissioner of Social Services may also consider area specific utilization and reductions in utilizations rates to account for the increased use of less institutional alternatives.

R. Nursing Home Bed Reservations (Sections 64 and 65)

These sections amend sections 19a-537 and 19a-537a of the General Statutes, which govern nursing home bed reservations. These sections remove all

references to "level of care" from the statutes. As a result, a nursing home must reserve the bed of a Medicaid resident who is absent due to hospitalization unless the nursing home documents that it has objective information from the hospital confirming that the resident will not return to the nursing home; the nursing home must readmit the resident to the reserved bed even if the resident is returning to a different level of care. Likewise, the statute's provisions regarding vacancy rates for purposes of Medicaid bed reservation reimbursement provide that the vacancy rates will be based on the entire facility, not the level of care of the hospitalized person.

28. AN ACT CONCERNING THE IMPLEMENTATION OF EXPENDITURES FOR VARIOUS STATE HEALTH PROGRAMS AND SERVICES AND MAKING TECHNICAL AND OTHER CHANGES TO CERTAIN PUBLIC HEALTH AND RELATED STATUTES, June Special Session Public Act No. 01-4, effective July 1, 2001 unless otherwise indicated.

Section 2 of this Act clarifies that "hearing aid dealers" are known as "hearing instrument specialists.

Section 15 of the Act requires the Commissioner of Social Services, in consultation with the Commissioner of Public Health, to conduct a study to determine the cost and savings related to requiring occupational therapy services in nursing facilities. The study must be based on the occupational care needs of residents. The commissioner must submit a report of the study's findings and recommendations to the Human Services, Public Health, Insurance and Real Estate, and Appropriations Committees of the General Assembly by February 1, 2002.

Section 43 of this Act revises section 38a-816 of the general statutes as amended by Public Act 01-111 to clarify that all entities responsible for payment under an insurance policy, not only insurers, must make timely payments to health care providers. Accordingly, insurers and any other entity responsible for providing payments to a health care provider pursuant to an insurance policy is subject to all statutory prompt payment processes, deadlines and penalties. This section takes effect on October 1, 2001.

Section 55 of the Act repeals section 18 of Public Act 00-135 which required the Department of Public Health to reinstate, without conditions, a registered nurse whose license is void for failure to pay the annual license fee in 1998 or 1999 upon application and payment of fees.

29. **AN ACT CONCERNING VARIOUS TAXES AND OTHER PROVISIONS RELATED TO REVENUES OF THE STATE**, June Special Session, Public Act No. 01-6, effective July 1, 2001 unless otherwise indicated.

Section 61 of this Act expands an existing sales tax exemption for burial caskets to cover caskets used for cremation, regardless of who sells them or how much they cost. The property that funeral homes use in preparing for and conducting burials and cremations continues to be tax-exempt to a maximum of \$2,500 per funeral.

30. **AN ACT CONCERNING THE EXPENDITURES OF THE OFFICE OF POLICY AND MANAGEMENT**, June Special Session, Public Act No. 01-9, effective July 1, 2001.

A. **Nursing Home Medicaid Rates (Section 95)**

This section contains a clarification amendment to section 52 of Public Act No. 01-2 of the June Special Session regarding nursing home Medicaid rates (see discussion under Public Act No. 01-2 above).

B. **Information about Drug Company Programs for Indigent Persons (Section 104)**

This section requires that the Commissioner of Social Services, within available appropriations, to make information available to senior citizens and disabled persons about any drug company programs for indigent persons. The Commissioner must make such information available by utilizing the ConnPACE Program, the CHOICES Health Insurance Counseling and Assistance Program and Infoline of Connecticut.

C. **Medicaid Payments of Medicare Part B Premiums (Section 106)**

This section amends section 9 of Public Act No. 01-2 by providing that for the fiscal year ending June 30, 2002, the Department of Social Services shall pay any applicable Medicare buy-in cost for eligible Medicaid recipients from expenditures deposited in a nonlapsing account from revenue received from the United States Department of Health and Human Services for the portion designated for any applicable buy-in cost. The section requires the Department to continue such payments until the Department contracts with the federal government to administer the Medicare Part B Buy-in Program.

D. Eligibility of Qualified Aliens for Medicaid or State-Administered General Assistance Medical Aid and for Connecticut Home-Care Program for the Elderly. (Sections 109 and 110)

These sections amend sections 17b-257b and 17b-342 of the General Statutes by removing the July 1, 2001 deadline for eligibility of qualified aliens for state-funded medical assistance and for the Connecticut Home-Care Program for the Elderly. The sections further provide, however, that the Commissioner of Social Services shall not accept applications for assistance or eligibility pursuant to these sections on or after June 30, 2002.

E. Funding of DPH Asthma Activities (Section 115).

This section provides for the transfer of \$300,000 from the Tobacco and Health Trust Fund to the Department of Public Health (“DPH”) to implement an asthma monitoring system and comprehensive statewide asthma plan as required by section 42 of June Special Session, Public Act 01-4.

B. EMPLOYER RELATED LEGISLATION

1. AN ACT CONCERNING THE WORKERS’ COMPENSATION REVIEW BOARD, Public Act No. 01-22, effective October 1, 2001.

This Act increases, from 10 to 20 days, the time that a party has in which to appeal to the Workers' Compensation Review Board for various actions of a workers' compensation commissioner relating to the following: awards; decisions on motions; orders requiring an employee's prior employer or its insurer who is found liable for part of the employee's compensation to reimburse an initially liable employer or insurer; occupational lung disease claims; and whether an employee's injury is a permanent vocational disability.

The Act also extends the appeal period from 10 to 20 days for decisions by workers’ compensation commissioners that impose a penalty on employers or insurers as follows:

- an employer for failing to provide insurance coverage or welfare plan payments to employees eligible for or receiving workers' compensation benefits;
- an employer or insurer for undue delay in adjusting or paying benefits due to fault or neglect;
- a party who unreasonably and without good cause delays completing a hearing;
- an employer who does not comply with certain insurance requirements; and

- an employer failing to transfer an employee to suitable work during treatment or rehabilitation.

2. AN ACT CONCERNING COVERAGE FOR NONPROFIT PROVIDERS AND MUNICIPAL EMPLOYEES UNDER THE STATE EMPLOYEE HEALTH PLAN, Public Act No. 01-30, effective July 1, 2001.

This Act adds employees of certain "nonprofit organizations" to the list of employees for whom the comptroller, with the Office of Policy and Management ("OPM") secretary's approval, is authorized to arrange and procure a group hospital, medical, and surgical health insurance plan. It also authorizes the comptroller, with the OPM secretary's approval, to arrange and procure an alternative health benefit plan for municipal and nonprofit organization employees. The Act defines a "nonprofit corporation" as a 501(c)(3) corporation under contract with the state.

The Act excludes (1) nonprofit organizations that obtain coverage through the comptroller from the definition of "small employer" under the statutory Blue Ribbon Health Care Plan, unless the comptroller and OPM secretary make a written request to the insurance commissioner to deem the organization a small employer, and (2) new or renewal contracts or policies entered into on or after July 1, 2001 covering employees of nonprofit organizations and municipalities from the premium tax imposed on HMOs.

3. AN ACT INCREASING THE MILEAGE REIMBURSEMENT RATE FOR WORKERS' COMPENSATION CLAIMANTS, Public Act No. 01-33, effective October 1, 2001.

This Act provides for an increase, from 15 cents to the federal mileage reimbursement rate, in the amount per mile that employers must reimburse workers' compensation recipients who use their own vehicles to go to and from medical appointments. (Note: The federal mileage reimbursement rate is currently 34.5 cents and generally increases annually.)

4. AN ACT CLARIFYING THE DEFINITION OF WILLFUL MISCONDUCT UNDER THE UNEMPLOYMENT COMPENSATION ACT, Public Act No. 01-37, effective October 1, 2001.

This Act revises the definition of "willful misconduct" under the Unemployment Compensation Act. Employees fired for willful misconduct are not eligible for unemployment compensation. Prior to passage of this Act, an employee could be fired for willful misconduct if [s]he was absent "without notice" on three separate instances in an 18 month period. This Act now specifies that the absence must be

either "without good cause" or "without notice to the employer that the employee could reasonably have provided under the circumstances."

5. AN ACT CONCERNING EMPLOYER RETENTION OF EMPLOYEE MEDICAL RECORDS, Public Act No. 01-55, effective October 1, 2001.

This Act extends the time an employer must keep a former employee's medical records from one to three years after termination of the employee.

6. AN ACT REQUIRING DIRECT PAYMENT OF PRESCRIPTION MEDICATION FOR WORKERS' COMPENSATION CLAIMANTS, Public Act No. 01-85, effective January 1, 2002.

This Act provides that employers, the workers' compensation insurers, or any entity acting on behalf of the employer or insurer must pay pharmacists directly for prescriptions related to the work-related injuries of employees. In addition, any employer that provides workers' compensation medical benefits through a managed care plan must identify all participating pharmacies to the employees. Finally, the Act clarifies that employers who become aware of an employee's work-related injury must provide prescription drugs, in addition to medical and surgical aid or hospital and nursing service, that a physician or surgeon determines is necessary.

7. AN ACT PROHIBITING EMPLOYMENT EXPLOITATION OF IMMIGRANT LABOR, Public Act No. 01-147, effective October 1, 2001.

This Act requires the labor commissioner to produce printed material on the rights of immigrant laborers or those who lack proficiency in English. The material must be in Spanish and French, and the commissioner may include other languages spoken by primary groups of immigrant laborers in the state. The material must address rights under state law on state contracts (such as hours and wages in public works contracts), wages, and unemployment compensation. Under the Act, the commissioner must provide the information to anyone who applies for unemployment compensation benefits or wants to enforce compliance with the wage and state contract laws; make the information available to the public within available appropriations; and prevent people from illegally taking advantage of immigrant and other laborers because of "lack of information about their rights, their credulity, or their lack of proficiency in English."

The Act also allows the commissioner to appoint special agents, who are familiar with the language of laborers, to inform any non-English speaking laborers of their contract rights under state law and to prohibit anyone from illegally taking advantage of laborers because of their lack of proficiency in English. Under the

existing law, the commissioner may appoint special agents as needed. The Act eliminates the \$300 total annual limit on expenses for these special agents.

The Act makes anyone who violates any of the employment regulation laws on hours and employee protection liable to the Labor Department for a \$300 civil penalty for each violation. Under the existing workers' compensation law, any person who violates the provisions on state contracts, wages, and certain types of fraud or deception of insurance companies is liable for the civil penalty. This Act allows the Labor Department to use the funds to enforce the Act's provisions on immigrant and non-English speaking laborers and the laws on hours and protection of employees.

Under current law, employers are prohibited from discharging, penalizing, or discriminating against an employee because of claims, proceedings, testimony, or rights the laborer exercised on behalf of himself/herself or others under the unemployment compensation system. An employee who is the target of this action can complain to the labor commissioner, who can, after a hearing, award appropriate relief, including an order for the employer to rehire or reinstate the employee and pay him back wages, benefits, and reasonable attorney's fees and costs. The Act also allows the commissioner to request the attorney general to bring an action in Superior Court for an injunction to require compliance with the commissioner's award, decision, or judgment.

8. AN ACT CONCERNING DEPENDENTS OF DECEASED WORKERS' COMPENSATION RECIPIENTS, Public Act No. 01-162, effective July 6, 2001.

This Act eliminates the "waiting period" for all dependents of deceased workers' compensation recipients; the "waiting period" had been eliminated for most, but not all, such dependents by prior revisions to the law. Under prior law, if a workers' compensation recipient died more than two years after the date of his injury or the first manifestation of an occupational disease, the recipient's dependents had to wait a period equal to the time the recipient received compensation before the dependents could receive death benefits. For example, if a worker received total disability benefits for five years and then died, his dependents had to wait five years to receive death benefits.

The Act further requires that benefits due to dependents because of the elimination of the "waiting period" be paid retroactively to the date of the worker's death. It also requires the Second Injury Fund to reimburse employers or insurers for these benefits.

9. AN ACT CONCERNING AN ARTICULATION AGREEMENT BETWEEN THE CONSTITUENT UNITS OF THE STATE SYSTEM OF HIGHER EDUCATION, Public Act No. 01-165, effective July 6, 2001.

This Act requires the boards of trustees for the Connecticut community-technical colleges, the Connecticut State University System, The University of Connecticut, Charter Oak State College, the Bridgeport Hospital School of Nursing and Connecticut's independent colleges to develop a plan to ensure that there are articulation agreements among the nursing programs to assist nurses in advancing their education and nursing credentials.

This Act also requires the Advisory Council on Student Transfer and Articulation ("ACSTA") to develop a plan to ensure that (1) there are articulation agreements in the areas of business, nursing, allied health, and other professional and pre-professional programs selected by ACSTA among the vocational-technical schools, the community-technical colleges, and high school programs in the areas of the state where the schools are located, (2) there are system-to-system articulation agreements in the areas of business, nursing, allied health, and other professional and pre-professional programs among the community-technical colleges, Connecticut State University, and the University of Connecticut, and (3) the articulation agreements include academic programs at the public colleges and universities that the labor commissioner and the Office of Workforce Development identify as addressing a workforce shortage area. ACSTA, in conjunction with the state departments of education and higher education and the boards of trustees of the public colleges and universities, must report to the Education Committee and the Workforce Development Committee by July 1, 2001 and annually thereafter.

The plans required by this Act must be developed by July 1, 2002 and implemented by July 1, 2004.

10. AN ACT CONCERNING BREASTFEEDING IN THE WORKPLACE, Public Act No. 01-182, effective October 1, 2001.

This Act allows employees to express breast milk or breastfeed at their workplace during their meal or break period. It requires employers to make reasonable efforts to provide a room or other location close to the work area (other than a toilet stall) for the employee to express her milk in private. "Reasonable efforts" are those that do not impose significant difficulty or expense taking into account factors such as the business's size, financial resources, and operational nature and structure. The Act also prohibits employers from discriminating against employees who choose to express milk or breastfeed at work.