

# 2019 Review of Key Legislation Relating to Providers of Services to the Elderly

Presented by:

Maureen Weaver

and

Elisabeth Pimentel

**WIGGIN**  
WIGGIN AND DANA

---

# General Session Summary

- Nursing Homes
- Residential Care Homes
- Home and Community Based Services
- Individual Practitioners
- Department of Public Health
- Employment / Business
- Miscellaneous
- Commissions and Task Forces

---

# Nursing Homes

- Nursing Home Medicaid Rates (Public Act 19-117 § 302)
  - Rebasing using 2018 cost report filings
  - Stop gain based on SFY 2019 rates
  - Limited stop loss based on low occupancy/star rating has resulted in controversy over estimated \$5.3 million in cuts for 9 facilities
  - Wage and benefit enhancements applied 7/1/19, 10/1/20 and 1/1/21

Effective 07/01/2019; *see p. 8 of Legislative Summary*

---

# Nursing Homes

- Nursing Home Medicaid Rates (Public Act 19-117 § 302)
  - Requires DSS to determine nursing home facility rates for fiscal year 2020 based upon 2018 cost report filings, adjusted to reflect any rate increases after the cost report year ending September 30, 2018; provided, that no facility receives a rate that is higher than the rate in effect June 30, 2019, unless DSS provides, within available appropriations, pro rata fair rent increases, including increases for facilities that have undergone a material change in circumstances related to fair rent additions in the cost report year ending September 30, 2018 that are not otherwise included in rates issued

Effective 07/01/2019; *see p. 8 of Legislative Summary*

---

# Nursing Homes

- Nursing Home Medicaid Rates (Public Act 19-117 § 302)
  - For fiscal year 2020, no facility will receive a rate that is more than 2% lower than the rate in effect on June 30, 2019, unless the facility has an occupancy level of less than 70% or an overall rating on Medicare's Nursing Home Compare of one star for the three most recent reporting periods as of July 1, 2019, unless the facility is under an interim rate due to new ownership

Effective 07/01/2019; *see p. 8 of Legislative Summary*

---

# Nursing Homes

- Nursing Home Medicaid Rates (Public Act 19-117 § 302)
  - For fiscal year 2021, no facility will receive a rate that is higher than the rate in effect June 30, 2020 unless DSS provides, within available appropriations, pro rata fair rent increases, including increases for facilities which have undergone a material change in circumstances related to fair rent additions in the cost report year ending September 30, 2019 that are not otherwise included in rates issued

Effective 07/01/2019; *see p. 8 of Legislative Summary*

---

# Nursing Homes

- Nursing Home Medicaid Rates (Public Act 19-117 § 302)
  - Requires DSS, within available appropriations, to increase rates for wage and benefit enhancements for nursing home facility employees effective July 1, 2019, October 1, 2020 and January 1, 2021

Effective 07/01/2019; *see p. 8 of Legislative Summary*

---

# Nursing Homes

- Nursing Home Staffing Levels (Public Act 19-89)
  - Calculate the number of APRNs, RNs, LPNs, and nurse's aides responsible for providing direct care to residents during a shift, post this information daily and retain this information for 18-months from the date of posting
  - Post (i) information daily regarding the minimum number of nursing home staff required by the regulations of Connecticut state agencies to provide direct patient care per shift and (ii) the telephone number or website that individuals may use to report violations of the staffing requirement

Effective 10/01/2019; *see p. 11 of Legislative Summary*

---

# Nursing Homes

- Nursing Home Staffing Levels (Public Act 19-89)
  - Permits DPH to take disciplinary action against a nursing home facility that violates the staffing requirements
    - Any staffing violations received must be posted in the facility and included in a listing by DPH
  - Adds to prohibition against retaliation by requiring employer to reinstate employee
  - Similarly for residents, facility must restore resident to living circumstance prior to retaliation

Effective 10/01/2019; *see p. 11 of Legislative Summary*

---

# Nursing Homes

- Interpreter Standards (Public Act 19-170)
  - Expands interpretive services to include interpretation for a deaf-blind person
  - Revises the definition of “medical settings” for which persons providing interpretive services must be registered with DORS which includes nursing homes and RCHs although they are not specifically mentioned
  - Provides some exemptions to the annual registration requirement with DORS, including friends/family do not have to register and emergency situations

Effective 07/01/2019; *see p. 26 of Legislative Summary*

---

# Nursing Homes

- Interpreter Standards (Public Act 19-170)
  - Requires DORS to (i) maintain a current listing of registered interpreters on its website and (ii) annually issue identification cards to registered interpreters listing the type of settings where the cardholder can interpret
  - Provides that people who are deaf, deaf-blind or hard of hearing may request or use a different registered interpreter than the one provided in any setting in accordance with a nationally recognized interpreter code of professional conduct
  - Authorizes anyone to report a violation of its provisions to Disability Rights Connecticut, Inc.

Effective 07/01/2019; *see p. 26 of Legislative Summary*

---

# Nursing Homes

- Participation by a Resident of a Nursing Home Facility or Residential Care Home in a Receivership Proceeding (Public Act 19-42)
  - Requires a court to allow a resident of a nursing home or RCH (or the resident's legally liable relative, conservator, or guardian) to be heard during these hearings without having to file an appearance as a party

Effective 07/01/2019; *see p. 11 of Legislative Summary*

---

# Nursing Homes

- Nursing Home / RCH Receivership (Public Act 19-117 § 303)
  - Raises, from \$3,000 to \$10,000, the amount that an appointed receiver of a nursing home or RCH may spend to correct or eliminate deficiencies in facility structure or furnishings that endanger resident safety or health
  - Requires an appointed receiver of a nursing home or RCH to begin closing the facility if its overall occupancy is below 70% and closure is consistent with the State's strategic rebalancing plan

Effective 07/01/2019; see p. 9 of Legislative Summary

---

# Nursing Homes

- Nursing Home / RCH Closures (Public Act 19-117 § 304)
  - Permits facilities to submit a petition for closure to DSS
    - Not applicable to nursing homes that do not participate in the Medicaid program and are associated with a continuing care facility, since these facilities are exempt from the CON process
  - DSS must grant or deny petitions for closure within 30 days of receiving them

Effective 07/01/2019; see p. 9 of Legislative Summary

---

# Residential Care Homes

- RCH Rates (Public Act 19-117 § 300)
  - Freezes RCH rates but authorizes DSS to approve RCH fair rent increases in fiscal years 2020 and 2021
  - Rates will not exceed those in effect for the prior fiscal year, 2019 then 2020 respectively, except DSS may provide pro rata fair rent increases to facilities which have documented fair rent additions placed in service in the cost report year ending September 30, 2018 for fiscal year 2020 and September 30, 2019 for fiscal year 2021 that are not otherwise included in rates issued

Effective 07/01/2019; see p. 8 of Legislative Summary

---

# Home and Community Based Services

- Rate Increase for Meals on Wheels (Public Act 19-117 § 308)
  - Requires DSS to increase the fee schedule for Meals on Wheels by 10% in fiscal year 2020

Effective 07/01/2019; *see p. 10 of Legislative Summary*

---

# Home and Community Based Services

- Fire Sprinkler Systems in Rental Units (Public Act 19-51)
  - Makes the current notice requirement about the presence or absence of a fire sprinkler system applicable only to landlords of buildings required to have a fire sprinkler system
  - The notice must be printed in at least 12-point boldface type of uniform font and should include whether there is a fire sprinkler system and the date of the system's maintenance and inspection

Effective 10/01/2019; *see p. 23 of Legislative Summary*

---

# Home and Community Based Services

- Community Ombudsman Program (Special Act 19-18)
  - Requires DSS and the LTC Ombudsman to jointly develop a Community Ombudsman program to investigate complaints concerning home and community-based services administered by DSS
  - Report due by January 1, 2020

Effective 06/05/2019; *see p. 39 of Legislative Summary*

---

# Home and Community Based Services

- Registries of Persons Found Responsible for Assaults or Other Abuse, Neglect, Exploitation or Abandonment of Elderly Persons or Persons with Disabilities (Public Act 19-116)
  - Requires the Commission on Women, Children and Seniors to (i) provide a portal on the Commission's website with links to publicly-available background databases, and (ii) convene a working group to raise awareness of the availability of these databases to persons hiring providers to care for elderly persons, children or persons with disabilities
  - The Commission must record the number of times the portal is utilized and submit a report on its utilization, no later than January 1, 2021

Effective 10/01/2019; *see p. 12 of Legislative Summary*

---

# Home and Community Based Services

- Covenant Not to Compete for Home Health Care, Homemaker and Companion Services (Public Act 19-117 § 305)
  - Requires that any covenant not to compete that restricts the right of an individual to provide homemaker, companion or home health services is void and unenforceable

Effective 06/04/2019; *see p. 10 of Legislative Summary*

---

# Home and Community Based Services

- Removal of the Term “Homemaker” in Reference to Home Health Aide Agencies and Services (Public Act 19-97)
  - Changes the term “homemaker-home health aide agency” to “home health aide agency” in various statutory provisions regarding these agencies, providers and services

Effective 07/01/2019; *see p. 12 of Legislative Summary*

---

# Individual Practitioners

- Revisions to Expand the Scope of Practice of Advanced Practice Registered Nurses (APRNs) (Public Act 19-98)
  - Provides updates to the general statutes to reflect the current scope of practice of APRNs

Effective 10/01/2019; *see p. 31 of Legislative Summary*

---

# Individual Practitioners

- Use of Automatic External Defibrillators (Public Act 19-113)
  - Establishes that all physicians, dentists or RNs and LPNs who operate an AED to render emergency medical or professional assistance to a person in need shall be immune from liability for civil damages for personal injuries caused by the AED's malfunctioning; provided, that, the malfunctioning was not a result of such provider's negligence

Effective 10/01/2019; *see p. 34 of Legislative Summary*

---

# Individual Practitioners

- Establishing a Collaborative Relationship Between Physician Assistants and Physicians (Public Act 19-144)
  - Current law defines the relationship as dependent, meaning that PAs must provide care under the supervision, control, responsibility and direction of a licensed physician
  - Redefines the relationship between a PA and physician as “collaborative,” rather than “dependent”

Effective 07/01/2019; *see p. 34 of Legislative Summary*

---

# Individual Practitioners

- Social Workers (Public Act 19-164)
  - Prohibits anyone from using the title “social worker,” or any associated initials, or advertising services as a “social worker” unless they (i) have a bachelor’s or master’s degree in social work from a social work program accredited by the Council on Social Work Education or CSWE-deemed equivalent education; or (ii) have a doctorate in social work
  - Removes the ability of a person with a master’s degree in social work from operating their own independent practice

Effective 10/01/2019; *see p. 26 of Legislative Summary*

---

# Individual Practitioners

- Alzheimer's Disease and Dementia Training and Best Practices (Public Act 19-115)
  - Effective 01/01/2020: Expands the CME behavioral health educational opportunities to include training and education on the diagnosis, treatment, and care of patients with (i) cognitive conditions such as Alzheimer's disease, dementia, delirium related cognitive impairments and geriatric depression or (ii) mental health conditions, including those conditions common to veterans and their family members
  - Effective 06/05/2019: Creates a working group, established by the Commission on Women, Children and Seniors, to review recommendations of the Task Force on Alzheimer's Disease and Dementia, determine gaps in implementation of those recommendations and make recommendations concerning best practices for Alzheimer's disease and dementia care
    - Report due by January 30, 2020

*see p. 25 of Legislative Summary*

---

# Individual Practitioners

- Art Therapist License (Public Act 19-117 §§ 176-182)
  - Defines “art therapist” as a person who has been licensed as an art therapist or issued a temporary permit for licensure as an art therapist and sets forth the process and criteria for obtaining an art therapist license, including licensure by endorsement
  - Prohibits any person who is not an art therapist from using the title “art therapist”
  - Authorizes DPH to take disciplinary action against licensed art therapists

Effective 10/01/2019; *see p. 3 of Legislative Summary*

---

# Department of Public Health

- Revisions to Statutes Governing DPH (Public Act 19-118)
  - § 5 (effective 07/01/2019): Requires a nursing home to notify DPH of a proposed change of ownership at least 120 days before the date of transfer, instead of 90 days
  - § 7 (effective 07/01/2019): Permits licensing boards, commissions or DPH to also take disciplinary action if the practitioner's license or permit is subject to voluntary surrender or an agreement not to renew or reinstate
  - § 15 (effective 07/01/2019): Allows DPH to adopt regulations to mandate that RCHs designate unlicensed personnel to obtain certification (and recertify every two years thereafter) to administer medication to residents

*see p. 13 of Legislative Summary*

---

# Department of Public Health

- Revisions to Statutes Governing DPH (Public Act 19-118)
  - § 16 (effective 07/01/2019): Allows DPH to adopt regulations to implement the requirement under law that home health aide agencies, RCHs and assisted living service agencies, and licensed hospice care organizations provide training and education on Alzheimer’s disease and dementia symptoms and care to all staff
  - § 21 (effective 07/01/2019): Shifts the focus areas of DPH’s statewide chronic disease plan from the reduction of chronic cardiovascular disease, cancer, lupus, stroke, chronic lung disease, diabetes, arthritis or another metabolic disease and the effects of behavioral health disorders to the areas of tobacco use, high blood pressure, health care associated infections, asthma, unintended pregnancy and diabetes
  - §§ 70-74 (effective 07/09/2019): These sections contain technical corrections to various statutes, including the nursing home property tax exemption statute, to update and correct the citation to the statutory definition of “nursing home”

*see p. 13 of Legislative Summary*

---

# Department of Public Health

- Revisions to Statutes Governing the Department on Aging and Disability Services and Meals on Wheels (Public Act 19-157 § 100)
  - Requires DPH, as part of its quality of care program for licensed health care facilities (including nursing homes), to develop recommendations on collecting and analyzing data on patient malnutrition to improve quality of care
  - The program must develop a standardized data set to measure health care facilities' clinical performance and require such data to be periodically collected and reported to DPH

Effective 07/01/2019; *see p. 35 of Legislative Summary*

---

# Employment / Business

- Minimum Wage Increase (Public Act 19-4)
  - Currently, the minimum hourly wage = \$10.10
  - October 1, 2019 = \$11.00
  - September 1, 2020 = \$12.00
  - August 1, 2021 = \$13.00
  - July 1, 2022 = \$14.00
  - June 1, 2023 = \$15.00
    - Beginning January 1, 2024, the State's minimum wage will be adjusted based on the federal employment cost index
    - Allows employers to pay a training wage of 85% of the minimum wage only to people under the age of 18, who are not emancipated minors, for the first 90 days of employment
  - Beginning October 1, 2020, employers may not do anything to displace, or partially displace, an employee in order to hire people under age 18 at a subminimum wage rate

*see p. 19 of Legislative Summary*

---

# Employment / Business

- Combating Sexual Assault and Sexual Harassment (Public Act 19-16)
  - Requires employers with three or more employees to provide a copy of the information regarding the illegality of sexual harassment and available remedies for victims to each employee by electronic mail within three months of the employee's start date with a subject line that includes the words "Sexual Harassment Policy" or words of similar import
    - Alternatively, an employer may comply with the notice requirement by providing an employee with the link to the CHRO website concerning the illegality of sexual harassment and the remedies available to victims of sexual harassment by electronic mail, text message or in writing
  - Employers with three or more employees must also provide sexual harassment prevention training to all supervisors within six months of assuming a supervisory position

Effective 10/01/2019; see p. 20 of *Legislative Summary*

---

# Employment / Business

- Combating Sexual Assault and Sexual Harassment (Public Act 19-16)
  - Requires that all employees, both supervisory and non-supervisory, receive two hours of sexual harassment prevention training
    - For existing employees, this training must be provided by October 1, 2020
    - All employees hired on or after October 1, 2019 must receive the training within six months of hire
  - Employers with fewer than three employees (including family businesses where an individual is employed by a spouse, parent or child) must provide sexual harassment training to supervisory employees by October 1, 2020, or within six months of an employee assuming a supervisory role
  - All employers are required to provide periodic supplemental training not less than every ten years

Effective 10/01/2019; see p. 20 of Legislative Summary

---

# Employment / Business

- Paid Family Leave (Public Act 19-25)
  - As of January 1, 2022, eligible employees will be entitled to 12 weeks of paid leave in a 12-month period under the CFMLA, with two additional weeks available to eligible employees who experience a pregnancy-related serious health condition that results in incapacitation
  - The paid leave will be funded by employee payroll contributions
    - Beginning January 1, 2021, an employee payroll tax of up to 0.5% will be implemented
  - Covers all private employers that have at least one employee (down from the current threshold of 75 employees), thus covering many more businesses
  - Expands the permissible reasons for taking leave

Effective 06/21/2019; see p. 22 of Legislative Summary

---

# Miscellaneous

- Legislative Commissioners' Recommendations for Revisions to the Public Health Statutes, Dental Assistants and Dental Therapy (Public Act 19-56)
  - Requires the task force that studies (i) the short-term and long-term needs of adults with intellectual disability and (ii) ways to provide services and support to such adults in need to submit a report by January 1, 2020
  - Expands the types of procedures that a licensed dentist may delegate to an expanded function dental assistant to include the administration of topical anesthetic and taking alginate impressions of teeth but requires the licensed dentist to directly supervise and assume responsibility for the procedures
    - Permits delegation only to dental assistants who have successfully completed an infection control competency assessment accredited by the American Dental Association's Commission on Dental Accreditation
  - Allows dental hygienists to engage in the practice of dental therapy if they meet certain requirements

*see p. 29 of Legislative Summary*

---

# Miscellaneous

- Expansion of Health Insurance Coverage for Hearing Aids (Public Act 19-133)
  - Eliminates the age restriction for mandated health insurance coverage for hearing aids, thus requiring certain insurance policies to cover hearing aids for any covered person
  - Allows policies to limit coverage to one hearing aid per ear (with no dollar amount limitation) within a 24-month period

Effective 01/01/2020; *see p. 18 of Legislative Summary*

---

# Miscellaneous

- Expansion of Medicaid Coverage of Telehealth Services (Public Act 19-76)
  - Current law requires DSS to provide coverage under the Medicaid program for telehealth services, within available State and federal resources, for categories of health care services that DSS determined were (i) clinically appropriate to be provided via telehealth, (ii) cost effective and (iii) likely to expand health care access
  - Removes availability of State and federal resources as a condition for providing telehealth coverage
  - Requires that the services be likely to expand health care access and that there be a clinical need for the services to be provided via telehealth
  - Permits DSS to provide coverage of telehealth services regardless of any State regulations that would otherwise prohibit such coverage
  - Report due from DSS on (i) the health care categories utilizing telehealth services, (ii) the cities or regions where the services are being offered and (iii) any cost savings realized by the State by August 1, 2020

Effective 07/01/2019; see p. 18 of Legislative Summary

---

# Miscellaneous

- Expansion of Required Health Insurance Coverage for Preexisting Conditions (Public Act 19-134)
  - Prohibits short-term health insurance policies issued on a nonrenewable basis for a term of six months or less from containing a provision that limits or excludes coverage for preexisting conditions
  - Redefines the term “preexisting condition provision” to include preexisting conditions whether or not medical advice, diagnosis, care or treatment was recommended or received before the coverage effective date

Effective 01/01/2020; *see p. 19 of Legislative Summary*

---

# Commissions and Task Forces

- Community Health Workers (Public Act 19-117 §§ 160-161)
  - Establishes a Community Health Worker Advisory Body within OHS to: (i) advise OHS and DPH on matters relating to the educational and certification requirements for training programs for community health workers, including the minimum number of hours and internship requirements for certification of community health workers; (ii) conduct a continuous review of such educational and certification programs; and (iii) provide DPH with a list of approved educational and certification programs for community health workers

Effective 01/01/2020; *see p. 1 of Legislative Summary*

---

# Commissions and Task Forces

- Commission on Women, Children, Seniors, Equity and Opportunity (Public Act 19-117 §§ 105-143)
  - Merges the Commission on Equity and Opportunity and Commission on Women, Children and Seniors into a single entity, the Commission on Women, Children, Seniors, Equity and Opportunity
  - The Commission will be organized into an executive committee and six subcommissions to advise on issues affecting the following underrepresented and underserved populations: women, children and the family, elderly persons, African Americans, Asian Pacific Americans and Latinos and Puerto Ricans

Effective 07/01/2019; *see p. 1 of Legislative Summary*

---

# Commissions and Task Forces

- Council on Protecting Women's Health (Public Act 19-70)
  - Creates a 20-member Council on Protecting Women's Health to monitor federal legislation and litigation related to women's health
  - Starting January 1, 2020, the council must annually submit a status report to the Joint Committees on Public Health and Insurance

Effective 07/01/2019; *see p. 38 of Legislative Summary*

---

# Commissions and Task Forces

- Task Force on High Deductible Health Plans (Public Act 19-117 § 247)
  - Establishes a task force to study the structure and impact of high deductible health plans that are not used to establish medical savings accounts, Archer Medical Savings Accounts or health savings accounts
  - Report due December 1, 2020

Effective 06/04/2019; *see p. 7 of Legislative Summary*

---

# Commissions and Task Forces

- Task Force to Study Remedies and Potential Liability for Unreasonably Contested or Delayed Workers' Compensation Claims (Special Act 19-10)
  - Establishes a task force to study unreasonably contested and delayed workers' compensation claims
  - Specifically, the task force must: (i) identify the extent of unreasonably contested or delayed claims, (ii) study methods to expand remedies for such unreasonably contested or delayed claims and (iii) clarify existing law regarding bad faith handling of such claims
  - Report due by January 1, 2020

Effective 06/04/2019; *see p. 39 of Legislative Summary*

---

# Commissions and Task Forces

- Task Force to Increase Employment Opportunities for Persons with Disabilities (Special Act 19-12)
  - Establishes a task force to study how to increase employment opportunities for persons with disabilities
  - The task force will study and make recommendations about (i) expanding existing employment assistance programs for persons with disabilities and (ii) establishing financial incentives for businesses to employ more persons with disabilities
  - Report due February 1, 2020

Effective 06/04/2019; *see p. 39 of Legislative Summary*

---

# Questions?



This presentation is a summary of legal principles.

Nothing in this presentation constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney.

The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be complete statement of all relevant issues.

