2019 Health Care Legislation[1]

During the 2019 Legislative session, there were several significant pieces of legislation focusing on health care services, quality and cost.

A. Governor's bills

1. HB 7159 An Act Addressing Opioid Use

This bill modifies existing statutes to promote prevention of opioid use disorder. Among other things, it:

a. Requires pharmacists to offer consultations when dispensing a prescription to cover all patients, instead of the existing requirement that only applies to Medicaid patients;
b. Allows pharmacists to designate a trained pharmacy technician to access the state's Connecticut Prescription Monitoring and Reporting System ("CPMRS") on their behalf;
c. Specifies that prescribing practitioners or their agents are not prohibited from disclosing CPMRS information about pharmacy- or veterinarian-dispensed prescriptions to the Department of Social Services (DSS) to administer medical assistance programs;
d. Requires drug manufacturers and wholesalers to report to the Department of Consumer Protection (DCP) decisions to terminate or refuse an order from a pharmacy or prescribing practitioner for schedule II to V controlled substances;
e. Prohibits life insurance and annuity policies or contracts from excluding coverage solely based on an individual having received a prescription for naloxone;
f. Requires practitioners who prescribe an opioid drug with more than a 12-week supply to establish a treatment agreement with the patient or discuss a care plan for chronic opioid drug use;
g. Requires DMHAS-operated or –approved treatment programs to educate patients with opioid use disorder, and their relatives and significant others, on opioid antagonists and how to administer them;

[1] Summary as of June 10, 2019. Additional provisions may be included.

h. Requires certain emergency medical services (EMS) personnel applicants on or after January 1, 2020, to complete (a) mental health first aid training and (b) national training and examination requirements;
i. Requires hospitals, starting January 1, 2020, to administer a mental health screening or assessment on patients treated for a nonfatal opioid drug overdoses if it is medically appropriate to do so.

Various Effective Dates

2. HB 7200 An Act Concerning the Sale of Cigarettes, Tobacco Products, Electronic Nicotine Delivery Systems and Vapor products to Persons Under Age Twenty-One

This bill:

a. raises, from 18 to 21, the legal age to purchase cigarettes, other tobacco products, and e-cigarettes;
b. makes corresponding changes to the laws regarding the sale, giving, and delivery of such products to individuals under the legal age;
c. requires dealers who sell e-cigarettes and ship them directly to consumers to obtain the signature of a person aged 21 or older prior to delivery;
d. increases, from $50 to $200, the annual license fee for cigarette dealers;
e. increases, from $400 to $800, the annual registration fee for e-cigarette dealers and retains the $400 fee for dealers with multiple registrations;
f. reduces, from $400 to $200, the annual registration fee for e-cigarette manufacturers who hold multiple registrations;
g. increases certain penalties for cigarette, tobacco product, and e-cigarette sales and purchases involving individuals under the legal age;
h. requires DMHAS to conduct unannounced compliance checks on e-cigarette dealers and refer noncompliant dealers to the Department of Revenue Services which may impose civil penalties;
i. allows e-cigarette dealers to give promotional samples in connection with the promotion or advertisement of a product in a similar manner as current law allows for cigarettes and tobacco products;
j. bans smoking and e-cigarettes on the grounds of child care centers and schools; and

k. makes other changes affecting the sale of these products.

Effective October 1, 2019

B. **State Budget**

1. **HB 7424**

This bill included several important provisions that impact health:

a. ***§ 72*** -- Requires OPM to, by September 1st of each year, to determine amounts appropriated for the Department of Public Health's (DPH) Children's Health Initiatives (CHI) for calculation of the public health fee assessed against domestic health insurers. PA 17-4 added the costs of the CHI to the public health fee, which includes 1) syringe services program, (2) AIDS services, (3) breast and cervical cancer detection and treatment, (4) x-ray screening and tuberculosis care, and (5) sexually transmitted disease control.
Effective July 1, 2019

b. ***§ 75*** -- Safe Drinking Water Primacy Assessment – this section imposes an assessment of up to $2.5 million on community public water systems or non-transient non-community public water systems to support DPH's ability to maintain primacy, defined as primary enforcement responsibility for public water systems, under the federal Safe Drinking Water Act (SDWA, 42 U.S.C. § 300f et seq.). Among other things, it allows water companies that own community water systems to recover the assessment from customers and exempts state agencies from the assessment.
Effective upon passage

c. ***§ 148*** – Expands DPH's Newborn Screening Program to include any disorder listed on the federal Recommended Uniform Screening Panel, subject to OPM's approval The bill expands the Department of Public Health's (DPH) Newborn Screening Program to include any disorder listed on the federal Recommended Uniform Screening Panel, subject to the Office of Policy and Management (OPM) secretary's approval.

Effective October 1, 2019

d. ***§ 160 – 61*** -- These sections incorporate language from SB 859, and create a **community health worker** certification program under DPH. They also require OHS to establish a 14-member Community Health Worker Advisory Body to advise OHS and DPH on education and certification requirements for community health worker training programs and provide DPH with a list of approved programs.
Effective January 1, 2020

e. ***§§ 207 – 08*** – Establish a **Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Health and Human Services Network** to make recommendations to the state legislative, executive, and judicial branches concerning health and human services delivery to LGBTQ people in the state. It establishes the network's membership and charges it with, among other things, working to build a safer and healthier environment for LGBTQ people.
Effective July 1, 2019

f. ***§§ 209 & 210*** **—** Expand coverage for breast ultrasounds and eliminates out-of-pocket expenses for ultrasounds and mammograms under certain health insurance policies. These sections require certain health insurance policies to expand coverage for breast ultrasound screenings to include women whose physicians recommend it and who (1) are ages 40 and older, (2) have a family history or prior personal history of breast cancer, or (3) have a prior personal history of benign breast disease. It also prohibits these policies from charging coinsurance, copayments, deductibles, and other out-of-pocket expenses for covered breast ultrasounds and mammograms. (Current law only prohibits insurers from charging (1) copayments that exceed $20 for breast ultrasounds and (2) copayments or deductibles for mammograms for women ages 50 to 74 that are conducted according to national guidelines.)
Effective January 1, 2020

g. ***§§ 236 & 237*** **—** Limits the maximum out-of-pocket expenses that certain health insurers can charge and makes it an unfair insurance practice for insurers to charge more than this amount.
Effective January 1, 2020

h. ***§ 238*** -- Protects providers' ability to inform patients of lowest cost, appropriate treatment options**.** Bars the inclusion in insurer contracts provisions that would penalize provider disclosure of health care costs or available alternative treatments to their patients, including information about (1) a covered benefit's cost and cash price and (b) the availability, cost, and cash price of any health care service or product that is therapeutically equivalent to a covered benefit. Such penalties may include increased utilization review, reduced payments, or other financial disincentives, or disclosure of certain information to an insured concerning covered benefits.
Effective January 1, 2020

i. ***§ 239*** — Introduces changes to the way insurers calculate and apply consumers' deductibles for service to require that they be calculated in the same way that existing law requires of coinsurances and extends this requirement to amounts charged by MCO subcontractors. Under current law, MCOs must calculate coinsurances based on the lesser of (1) the amount the provider charges for the specific good or service or (2) the amount payable by the MCO for the goods or services. The bill (1) includes in the latter category any amounts payable by an MCO's subcontractor and (2) requires MCOs to calculate deductibles using the same criteria.
Effective January 1, 2020

j. ***§ 240*** — This section expands the definition of a surprise bill to include non-emergency services rendered by an out-of-network clinical laboratory if an insured is referred to it by an in-network provider and requires health carriers to (1) cover any such services resulting in a surprise bill at the in-network level of benefits and (2) include the revised definition of surprise bill in policy documents and on their websites.

Effective January 1, 2020

k. ***§§ 241-243*** — Reduces, from 72 to 48 hours, the maximum time for certain health benefit and adverse determination reviews, but creates an exception for weekends
Effective January 1, 2020

l. **§*245*** -- Adds trauma activation fees to the data that acute care general and children's hospitals' must include in their annual reporting to OHS.
Effective October 1, 2019

m. **§*246 --*** Requires certain insurance policies to cover treatment of emergency conditions that are medically necessary which, per statute, is defined as: "a condition such that a prudent layperson, acting reasonably, would have believed that emergency medical treatment is needed"
Effective January 1, 2020

n. **§247** – Establishes a high deductible task force to study the structure and impact of HDHPs and make recommendations to the insurance committee by February 1, 2020
Effective upon passage

o. ***§ 302*** — Requires DSS to provide rate increases, within available appropriations, three times by January 1, 2021, to increase employee salaries and otherwise subjects nursing home rates to certain limits with various exceptions for FYs 20 and 21. This generally caps FY 20 nursing home rates at FY 19 levels and FY 21 rates at FY 20 levels, but allows DSS to pay a facility a higher rate by providing, within available appropriations, proportional fair rent increases. This also prohibits FY 20 rates for any facility from being more than 2% lower than its FY 19 rate, unless the facility has (1) an occupancy level of less than 70% as reported in its 2018 cost report or (2) a one star overall rating on Medicare's Nursing Home Compare for the three most recent reporting periods as of June 1, 2019, unless the facility is under an interim rate due to new ownership. Lastly, this section requires DSS to

increase rates, within available appropriations, to enhance employee wages and benefits.

Effective July 1, 2019

p. **§305** – Bans non-compete agreements for home health, companions and home maker services. Applies to restrictions for geographic areas and to agreements for services to specific individuals.

Effective upon passage

q. ***§§ 306 & 307*** -- Requires DSS to implement one or more value-based payment methodologies for hospitals that reduce costs and promote improved quality. These sections:

- require DSS to reduce applicable payments based on certain readmissions;
- prevents DSS from making Medicaid payments to hospitals if such payments are ineligible for federal financial participation;
- eliminates a requirement that the FY 20 aggregate amount in the supplemental pools be $166.5 million;
- requires $15 million to be allocated in FY 20 and $45 million in FY 21, based on certain parameters and within available appropriations Value-Based Payment Methodologies and Readmission Penalties
- allows methodologies to include those designed to:
  - reduce inpatient hospital readmissions;
  - reduce unnecessary caesarian section deliveries, take appropriate actions to reduce preterm deliveries, and improve obstetrical care outcomes;
  - address outpatient infusions involving high-cost medications through performance-based payments; and
  - other policies as determined by the DSS commissioner.
- requires DSS to reduce the total applicable rate payment by 15% for each hospital readmission. Under the bill, a readmission occurs when an individual is admitted to the hospital for observation services for a diagnosis within 30 days of being discharged for the same or similar diagnosis.

- Connecticut Children's Medical Center and Yale New Haven Children's Hospital are exempted from this provision for FYs 20 and 21.
  Effective July 1, 2019

r. ***§ 316*** – Requires DSS to increase income eligibility for non-pregnant Husky A parents and caretakers from 155% of FPL ($33,062 for a family of 3 in 2019) to 160% FPL ($34,128 for a family of 3 in 2019), including the income disregard.
Effective October 1, 2019

s. ***§§ 377-383*** — These sections authorize the comptroller to offer other types of health care plans to nonstate public employers in addition to or instead of the state employee health plan. Plans may include other group hospitalization, medical, pharmacy, or other surgical insurance plans the comptroller develops. A "nonstate public employer" is a municipality or other state political subdivision, including a board of education, quasi-public agency, or public library.

C. Health Professions

In addition to the significant provisions in HB 7424 that address the role and scope of health professionals, such as Community Health Workers and Mobile Integrated Health programs, additional legislation also focused on these elements.

1. HB 6942 An Act Concerning A Collaborative Relationship between Physician Assistants and Physicians
    a. This bill defines a physician assistant's (PA's) relationship with a physician as collaborative instead of dependent, as under current law.
    b. Existing law, unchanged by the bill, requires PAs to provide patient care under the supervision, control, responsibility, and direction of a licensed physician.

Effective July 1, 2019

2. SB 921 An Act Concerning the Scope of Practice of Advanced Practice Registered Nurses

    c. This bill expands the scope of practice for advanced practice registered nurses (APRNs) in certain circumstances and, in some cases, grants them additional authority to perform specific actions. Some examples of changes this bill imposes that enable APRNs to:

        - Enter into a collaborative drug therapy management agreement with a pharmacist;
        - Authorize emergency treatment for a child hospitalized for psychiatric disabilities if parental consent is withheld or immediately unavailable and the APRN determines that treatment is necessary to prevent serious harm;
        - Diagnose a firefighter with post-traumatic stress disorder after the firefighter witnessed the death of another firefighter in the line of duty (for workers' compensation only);
        - Conduct physical exams for municipal firefighters and police officers on entry to service that may be used in future workers' compensation claims involving cardiac emergencies;
        - Allows APRNs to diagnose significant changes in a patient's diabetes symptoms, for purposes of requiring insurers to cover medically necessary diabetes outpatient self-management training and education;
        - Allows APRNs to order neuropsychological testing of a child with cancer to assess cognitive or development delays due to treatment, for purposes of providing coverage under HUSKY without prior authorization.

    d. It also prohibits contracts between insurers and APRNs from having an indemnification agreement for specified claims and requires health insurers to cover mental health services, including residential treatment, provided by APRNs in the same manner as those provided by physicians.

Effective October 1, 2019

D. State Agency Bills

1. **SB 920 – Revisions to DPH statutes**

This is a comprehensive bills that includes many technical and other changes to DPH statutes, but some provisions of relevance include:

a. ***§§ 5 & 6*** modify the definition of "multi-care institution" to include hospitals that provide behavioral and other health care services, including methadone and substance use disorder treatments, and requires these hospitals to provide DPH with a list of their satellite units when completing licensure applications
Effective July 1, 2019

b. ***§ 502*** amends CGS 19a-491 to permits licensing and inspection of outpatient clinics either every 3 years or, if the clinic received accreditation from its national accrediting organization within the immediately preceding twelve-month period, such licensing and inspection may be required once every four years
Effective July 1, 2019

c. ***§§ 506-519*** -- sections that redefine EMS provider to include an EMS organization, modifies the certification procedure and requirements for EMS providers and instructors
Effective July 1, 2019

d. ***§§ 524-529*** -- incorporate the text of HB 7278 to enable the development and provision of mobile integrated health care programs, which are DPH approved programs in which a licensed or certified ambulance service or paramedic intercept service provides services, including clinically appropriate medical evaluations, treatment, transport, or referrals to other health care providers under nonemergency conditions by a paramedic acting within his or her scope of practice as part of an EMS organization within the EMS system. This section also establishes that anyone who receives services from a mobile integrated health

program will generally be liable for the reasonable and necessary cost of those services, even if the person did not agree or consent to the liability.
Effective July 1, 2019

e. ***§ 537*** amends CGS 19a-654(d) to add language allowing OHS to contract with a 3rd party for the management and/or analysis of data it receives to carry out its functions.
Effective July 1, 2019

E. Health Care Access

In addition to the significant provisions in HB 7424 that address healthcare quality and access, additional legislation also focused on these elements.

1. **SB 394** An Act Establishing a Council on Protecting Women's Health
   a. This bill establishes a 20-member Council on Protecting Women's Health to advise the Public Health and Insurance committees on strategies and any necessary legislative changes to ensure that the federal government does not impede the provision of health care to women in Connecticut.
   b. The bill requires the council to (1) monitor federal legislation and any litigation relating to women's health and wellness that could negatively impact women's health in the state and (2) immediately report to the committees on strategies, including initiating legislation, to protect women's health. The council must meet at least quarterly.
   c. Starting by January 1, 2020, the council must annually submit a status report to the Public Health and Insurance committees

   Effective July 1, 2019

2. SB 807 – Defines and allows for the practice of dental therapy.
   a. Dental therapist must be a dental hygienist with advanced training under a collaborative agreement with a dentist.
   b. Dental therapy includes educational, therapeutic and preventive services
   c. Must practice in public health setting

d. Continuing education required

Effective January 1, 2020

3. **SB 1052** An Act Expanding Medicaid Coverage of Telehealth Services
   a. This bill requires the Department of Social Services (DSS) provide coverage for telehealth services that are (1) clinically appropriate, (2) cost effective, and (3) likely to expand access.
   b. It also removes the additional condition requiring that state and federal resources be available for the provision of such coverage.
   c. DSS must submit a report to the Human Services and Public Health committees by August 1, 2020, on 1) the health care categories utilizing telehealth services, 2) the cities or regions where the services are being offered, and 3) any cost savings realized by the state.

   Effective July 1, 2019

4. **HB 5521** – An Act Expanding Required Health Insurance Coverage for Preexisting Conditions
   a. This bill prohibits short-term health insurance policies issued on a nonrenewable basis for a term of six months or less from containing a preexisting condition provision.

   Effective January 1, 2020

5. **HB 7125** Mental Health Parity monitoring
   a. This bill expands the reporting and oversight requirements for carriers and the Insurance Department (CID) to ensure that benefits for mental health and substance use services are provided in a manner consistent with the medical benefits offered under a plan. It requires each health carrier to annually report to CID certain data about their processes.
   b. Starting in April 15, 2021, CID must submit these reports to the Insurance and Real Estate Committee as well as the attorney general, healthcare advocate, and the Office of Health Strategy's executive director.

Effective October 1, 2019 section 1,

Effective January 1, 2020 sections 2-5