



**STATE OF CONNECTICUT**  
**OFFICE OF POLICY AND MANAGEMENT**

***TESTIMONY PRESENTED TO THE PUBLIC HEALTH COMMITTEE***  
***MARCH 6, 2020***

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Testimony Supporting House Bill No. 5020

**AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS**  
**REGARDING PUBLIC HEALTH**

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Senator Abrams, Representative Steinberg and distinguished members of the Public Health Committee, thank you for the opportunity to offer testimony in support of House Bill No. 5020, An Act Implementing the Governor's Budget Recommendations Regarding Public Health.

This bill includes four critical initiatives in support of Governor Lamont's proposed budget which are designed to enhance the health and safety of Connecticut's residents, especially youth and other vulnerable populations. Enactment of this bill will: (1) reduce use of vaping products by youth; (2) support the All-Payer Claims Database; (3) license the hospital and psychiatric residential treatment facility units operated by the Department of Children and Families (DCF); and (4) enhance the rights of residential care home residents experiencing involuntary discharge.

**Reduce the Use of Vaping Products by Youth (Sections 1-6 and Section 11)**

Governor Lamont is proposing four policy interventions designed to reduce the likelihood of electronic cigarette use by youth. These measures are in addition to his successful proposal last session to increase the minimum age for purchases to 21 and his current proposal under consideration by the Finance Revenue and Bonding Committee to modify taxation of electronic cigarette products to 50% of the wholesale sales price.

First, he is calling for a ban on the sale of any electronic nicotine delivery systems (ENDS) and vapor products with a flavoring agent other than tobacco flavor. Data from the 2019 National Youth Tobacco Survey indicate that, although the rate of smoking combustible cigarettes among high schoolers continues to decline and is now 5.8% nationally, the prevalence of e-cigarette use among high schoolers continues to explode and nationally is now 27.5%. Eliminating access to these flavored ENDS and vapor products will help prevent future youth initiation into the use of tobacco products, as research data shows that an overwhelming majority of teenagers who had used a tobacco product initially used a flavored product.

Second, the Governor is also recommending capping the maximum level of nicotine in ENDS and vapor products allowed to be sold in Connecticut at 35 milligrams per milliliter. Prohibiting the sale of products having greater nicotine concentration levels will protect youth and young adult users by making these products less addictive. Documentation of the nicotine content of each product sold by a manufacturer of an ENDS or vapor product will be required to be provided by the manufacturer to a registered ENDS dealer. This documentation must be maintained by a retail establishment and made available upon request to the Department of Mental Health and Addiction Services (DMHAS). DMHAS will hire two additional Special Investigators to conduct compliance checks to enforce the ban on flavored vaping products and monitor adherence to the nicotine content cap sales restriction. These positions will be funded out of the Drug Assets Forfeiture Revolving Account, a non-appropriated, non-lapsing account in the General Fund. Consistent with current enforcement activities related to sales of tobacco and vaping products to minors, noncompliant business entities will be referred to the Department of Revenue Services which may conduct enforcement activities including requiring the successful completion of an online prevention education program administered by DMHAS, assessing financial penalties and directing the Department of Consumer Protection to suspend or revoke the dealer's registration.

Third, while most retailers abide by the new law to restrict sales of cigarettes and ENDS to adults over 21, the Lamont administration is proposing to increase penalties for sales to minors with the expectation that retailers will be compelled to comply with the stricter law, resulting in fewer youth trying or becoming addicted to nicotine. Civil penalties for employees failing to successfully complete an online prevention education program following a first violation will increase from \$200 to \$400, with the penalty for the second or subsequent violation on or before 24 months after the first violation increasing from \$250 to \$500. For dealers failing to successfully complete an online prevention education program following a first violation, the penalty will increase from \$300 to \$600, with the penalty for a second violation on or before 24 months after the first violation increasing from \$750 to \$1,500, and the penalty for a third or subsequent offence on or before 24 months after the first violation increasing from \$1,000 to \$2,000. These amounts align more closely with New York State where violators are fined up to \$1,000 for the first offense and up to \$1,500 for the second and subsequent offenses.

And finally, fostering health-enhancing behaviors over a lifetime starts in childhood, and school health education programs play an important role in reducing students' health risk behaviors. For this reason, Governor Lamont is also calling upon our schools to include vaping and marijuana use curriculum as part of their comprehensive health education programs. Section 11 of the bill adds the avoidance of ENDS, vaping products and marijuana to the list of topics that must be included in the health curriculum taught every academic year to pupils in all grades in the public schools.

We are requesting the following minor substitute language to address an inadvertent drafting error in Section 3. As currently drafted, the \$600 fine for a first offense for selling a banned vaping product would have to be paid regardless of whether the violator attends the DMHAS online prevention education program. Instead, the fee should be waived if the violator successfully completes the online program, to mirror the current process for combustible tobacco violations. We believe the following change will provide conformity with the tobacco statutes in lines 182-184 of the bill:

- In line 223, strike “such” and replace with “any”
- In line 223, after “entity” insert “issued a dealer registration, whose authorized owner fails to complete such program,”

### **Support the All-Payer Claims Database (Section 7)**

Connecticut’s All-Payer Claims Database (APCD) is a large state database that includes medical claims, pharmacy claims, dental claims, and eligibility and provider files collected from private and public payers. The state’s APCD advances the goal of improving health care affordability, efficiency, and cost transparency. This section authorizes Access Health CT to charge assessments or user fees to support the continued operation of the APCD program and to enter into an agreement with the Office of Health Strategy (OHS) to transfer the funds collected to OHS. The total cost of the APCD program is approximately \$650,000 annually. Access Health CT will increase assessments or user fees in order to make up the funding shortfall. This amount will then be transferred to the Insurance Fund to be available to OHS to fully support the program.

### **Protect Child Safety by Requiring Licensure of Facilities (Section 8-10)**

These sections of the bill remove the licensure exemption for the hospital and Psychiatric Residential Treatment Facility (PRTF) units at the Albert J. Solnit Children’s Center, operated by DCF. The Solnit Center consists of a south campus, having a 50-bed children’s psychiatric hospital, and a 24-bed PRTF serving adolescent girls; and a north campus, having a 38-bed PRTF serving adolescent males.

The Governor’s recommended budget provides funding to support additional staff under the Departments of Children and Families and Public Health (DPH) to accomplish the licensure of the Solnit Center. This includes seven nursing and clinical positions for DCF to enhance the care and treatment of children served at the Center’s North Campus, and one Nurse Consultant position for DPH to conduct inspection and complaint investigation activities. Licensure will allow for regular external monitoring and inspection, which will help ensure the delivery of safe and high-quality care to a highly vulnerable population of children with complex mental health and trauma histories and promote transparency and accountability in the provision of this care.

### **Enhance Rights of Residential Care Homes Residents Experiencing Involuntary Discharge (Section 12)**

This section makes changes that will allow a residential care home (RCH) to qualify as a home and community-based setting under federal regulations, thus enabling RCH residents to receive home and community-based services and avoid institutionalization. Over 260 individuals currently reside in RCHs and receive Medicaid services under the Connecticut Home Care Program for Elders waiver. Pursuant to 42 CFR 441.301, residents living in home and community-based settings must

have comparable protections to those provided to tenants under the state's landlord/tenant law. C.G.S. sec. 19a-535a, regarding the transfer or discharge of RCH patients, is amended to provide broader protections and appeal rights that are consistent with this requirement.

A workgroup, consisting of the Departments of Public Health and Social Services (DSS), the Office of Policy and Management, the State Long Term Care Ombudsman, and RCH representatives, is actively meeting to discuss notice requirements, how the administrative hearings process overseen by DPH is conducted, and a resident's ability to appeal a DPH determination. Modifications to the proposed language have already been identified and we expect further changes to be discussed in the coming days as we work to finalize the language.

Please note that in the absence of any legislation, DSS will need to begin advising RCH residents that are on the waiver that they will need to choose between moving to another setting to retain their home and community-based services or staying in their RCH and losing the services. The proposed legislation, to be refined as discussed above, will not only ensure there is no service disruption, thereby avoiding more costly institutional placements, but it will also allow additional persons to reside in RCHs and receive services and supports under other waivers such as the Mental Health waiver. By providing an additional resource for community living under Medicaid waiver programs for persons who choose not to live alone in their home, this effort will further enhance the state's rebalancing initiatives.

I would like to thank the committee for the opportunity to present this written testimony in support of HB 5020 and I respectfully request that the committee take favorable action on this bill.