House of Representatives

File No. 587

General Assembly

February Session, 2022 ***(Reprint of File No. 231)***

Substitute House Bill No. 5278
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 22, 2022

AN ACT REQUIRING EXPRESS WRITTEN CONSENT TO THE INTIMATE EXAMINATION OF A PATIENT WHO IS UNDER DEEP SEDATION OR ANESTHESIA OR UNCONSCIOUS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 19a-490m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Each hospital and outpatient surgical facility shall develop protocols for accurate identification procedures that shall be used by such hospital or outpatient surgical facility prior to surgery. Such protocols shall include, but need not be limited to, (1) procedures to be followed to identify the (A) patient, (B) surgical procedure to be performed, and (C) body part on which the surgical procedure is to be performed, and (2) alternative identification procedures in urgent or emergency circumstances or where the patient is nonspeaking, comatose or incompetent or is a child. After January 1, 2006, no hospital or outpatient surgical facility may anesthetize a patient or perform

surgery unless the protocols have been followed. Each hospital and outpatient surgical facility shall make a copy of the protocols available to the Commissioner of Public Health upon request.

(b) Not later than October 1, 2006, the Department of Public Health shall report, in accordance with section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to public health describing the protocols developed pursuant to subsection (a) of this section.

(c) Not later than January 1, 2023, each hospital and outpatient surgical facility shall develop and implement procedures for securing on a written or electronic form a patient's express written consent to an intimate examination. A health care provider at each hospital and outpatient surgical facility shall obtain such consent in advance of performing an intimate examination on a patient who will be under deep sedation or general anesthesia, or is rendered unconscious, unless the intimate examination is within the scope of a planned procedure, diagnostic examination or surgical procedure for which the patient has provided general consent. If a student in a medical school participating in a course of instruction or person participating in a residency program or clinical training program performs an intimate examination on a patient exclusively for training purposes, and not (1) as part of the patient's clinical care, or (2) when such student or person is part of the patient's clinical care team, the hospital or outpatient surgical facility shall obtain a separate written consent from the patient detailing such student's or person's involvement in the intimate examination. Express written patient consent shall not be required under this subsection for intimate examinations performed in an emergency or urgent care situation for diagnostic or treatment purposes. Each hospital and outpatient surgical facility shall make a copy of the procedures and consent forms developed under this subsection available to the Commissioner of Public Health upon request. As used in this subsection, (A) "health care provider" means a physician licensed pursuant to chapter 370, a student in a medical school participating in a course of instruction, a person participating in a residency program or

clinical training program, a physician assistant licensed pursuant to chapter 370 or an advanced practice registered nurse licensed pursuant to chapter 378, and (B) "intimate examination" means a pelvic, prostate or rectal examination.

Sec. 2. Subsection (b) of section 20-10b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(b) Except as otherwise provided in subsections (d), (e) and (f) of this section, a licensee applying for license renewal shall earn a minimum of fifty contact hours of continuing medical education within the preceding twenty-four-month period. Such continuing medical education shall (1) be in an area of the physician's practice; (2) reflect the professional needs of the licensee in order to meet the health care needs of the public; and (3) during the first renewal period in which continuing medical education is required and not less than once every six years thereafter, include at least one contact hour of training or education in each of the following topics: (A) Infectious diseases, including, but not limited to, acquired immune deficiency syndrome and human immunodeficiency virus, (B) risk management, including, but not limited to, prescribing controlled substances and pain management, and **[**, for registration periods beginning on or after October 1, 2019, such risk management continuing medical education may also include**]** screening for inflammatory breast cancer and gastrointestinal cancers, including colon, gastric, pancreatic and neuroendocrine cancers and other rare gastrointestinal tumors, and, for registration periods beginning on or after October 1, 2022, such risk management continuing medical education may also include screening for endometriosis, (C) sexual assault, (D) domestic violence, (E) cultural competency, including, but not limited to, the effects of systemic racism, explicit and implicit bias, racial disparities, and the experiences of transgender and gender diverse persons on patient diagnosis, care and treatment, and (F) behavioral health, provided further that **[**on and after January 1, 2016,**]** such behavioral health continuing medical education may include, but not be limited to, at least two contact hours of training or education during the

first renewal period in which continuing education is required and not less than once every six years thereafter, on diagnosing and treating (i) cognitive conditions, including, but not limited to, Alzheimer's disease, dementia, delirium, related cognitive impairments and geriatric depression, or (ii) mental health conditions, including, but not limited to, mental health conditions common to veterans and family members of veterans. Training for mental health conditions common to veterans and family members of veterans shall include best practices for (I) determining whether a patient is a veteran or family member of a veteran, (II) screening for conditions such as post-traumatic stress disorder, risk of suicide, depression and grief, and (III) suicide prevention training. For purposes of this section, qualifying continuing medical education activities include, but are not limited to, courses offered or approved by the American Medical Association, American Osteopathic Association, Connecticut Hospital Association, Connecticut State Medical Society, Connecticut Osteopathic Medical Society, county medical societies or equivalent organizations in another jurisdiction, educational offerings sponsored by a hospital or other health care institution or courses offered by a regionally accredited academic institution or a state or local health department. The commissioner, or the commissioner's designee, may grant a waiver for not more than ten contact hours of continuing medical education for a physician who: (I) Engages in activities related to the physician's service as a member of the Connecticut Medical Examining Board, established pursuant to section 20-8a; (II) engages in activities related to the physician's service as a member of a medical hearing panel, pursuant to section 20-8a; or (III) assists the department with its duties to boards and commissions as described in section 19a-14.

Sec. 3. (*Effective July 1, 2022*) (a) As used in this section:

(1) "Biorepository" means a facility that collects, catalogs and stores samples of biological material, including, but not limited to, urine, blood, tissue, cells, DNA, RNA and protein, from humans for laboratory research; and

(2) "Phenotypic data" means clinical information regarding a person's disease symptoms and relevant demographic data regarding the person, including, but not limited to, the person's age, sex, race and ethnicity.

(b) The University of Connecticut Health Center, in consultation with a research laboratory, shall develop a plan to establish an endometriosis data and biorepository program in the state to promote (1) early detection of endometriosis in adolescents and adults, (2) new therapeutic strategies for treatment and better overall management of endometriosis, and (3) early access to the latest therapeutic options for persons diagnosed with endometriosis.

(c) In developing the plan pursuant to subsection (b) of this section, The University of Connecticut Health Center shall require the endometriosis data and biorepository program to have the following functions:

(1) Collecting standardized phenotypic data along with the collection of biological samples of a person's endometriosis and control samples to improve the characterization of endometriosis and of the person with endometriosis;

(2) Developing standard operating procedures for retention and storage of biological samples of endometriosis and control samples, including, but not limited to, collection, transportation, processing and long-term storage of such samples;

(3) Curating biological samples of endometriosis from a diverse cross-section of communities to ensure representation of all groups affected by endometriosis, including, but not limited to, black persons, Latino persons, other persons of color, transgender and gender diverse persons and persons with disabilities;

(4) Researching the pathogenesis, pathophysiology, progression and prognosis of endometriosis and the development of noninvasive diagnostic biomarkers, novel targeted therapeutics, curative therapies

and preventive interventions with regard to endometriosis, including medical and surgical interventions;

(5) Serving as a centralized resource for endometriosis information;

(6) Facilitating collaboration among researchers and health care professionals, educators and students regarding best practices for the diagnosis, care and treatment of endometriosis; and

(7) Researching the impact of endometriosis on residents of the state, including, but not limited to, its impact on health and comorbidity, health care costs and overall quality of life.

(d) Not later than January 1, 2023, the chairman of the board of directors of The University of Connecticut Health Center shall report, in accordance with the provisions of section 11-4a of the general statutes, regarding the plan developed pursuant to subsections (b) and (c) of this section and the anticipated timeline for establishing the endometriosis data and biorepository program to the joint standing committee of the General Assembly having cognizance of matters relating to public health.

Sec. 4. Section 19a-266 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(a) For purposes of this section:

(1) "Breast cancer screening and referral services" means necessary breast cancer screening services and referral services for a procedure intended to treat cancer of the human breast, including, but not limited to, surgery, radiation therapy, chemotherapy, hormonal therapy and related medical follow-up services.

(2) "Cervical cancer screening and referral services" means necessary cervical cancer screening services and referral services for a procedure intended to treat cancer of the human cervix, including, but not limited to, surgery, radiation therapy, cryotherapy, electrocoagulation and related medical follow-up services.

(3) "Tomosynthesis" means a digital x-ray mammogram that creates two-dimensional and three-dimensional images of the breasts.

[(3)**]** (4) "Unserved or underserved populations" means women who are: (A) At or below two hundred fifty per cent of the federal poverty level for individuals; (B) without health insurance that covers breast cancer screening mammography or cervical cancer screening services; and (C) twenty-one to sixty-four years of age.

(b) There is established, within existing appropriations, a breast and cervical cancer early detection and treatment referral program, within the Department of Public Health, to (1) promote screening, detection and treatment of breast cancer and cervical cancer among unserved or underserved populations, while giving priority consideration to women in minority communities who exhibit higher rates of breast cancer and cervical cancer than the general population, (2) educate the public regarding breast cancer and cervical cancer and the benefits of early detection, and (3) provide counseling and referral services for treatment.

(c) The program shall include, but not be limited to:

(1) Establishment of a public education and outreach initiative to publicize breast cancer and cervical cancer early detection services and the extent of coverage for such services by health insurance; the benefits of early detection of breast cancer and the recommended frequency of screening services, including clinical breast examinations and mammography, which shall include, where possible, tomosynthesis; and the medical assistance program and other public and private programs and the benefits of early detection of cervical cancer and the recommended frequency of pap tests and tests for human papillomavirus;

(2) Development of professional education programs, including the benefits of early detection of breast cancer and the recommended frequency of mammography and the benefits of early detection of cervical cancer and the recommended frequency of pap tests and tests for human papillomavirus;

(3) Establishment of a system to track and follow up on all women screened for breast cancer and cervical cancer in the program. The system shall include, but not be limited to, follow-up of abnormal screening tests and referral to treatment when needed and tracking women to be screened at recommended screening intervals;

(4) Assurance that all participating providers of breast cancer and cervical cancer screening are in compliance with national and state quality assurance legislative mandates.

(d) The Department of Public Health shall provide unserved or underserved populations, while giving priority consideration to women in minority communities who exhibit higher rates of breast cancer and cervical cancer than the general population, within existing appropriations and through contracts with health care providers: (1) (A) Clinical breast examinations, (B) screening mammograms, **[**and**]** which shall include, where possible, tomosynthesis, (C) pap tests, and (D) tests for human papillomavirus, as recommended in the most current breast and cervical cancer screening guidelines established by the United States Preventive Services Task Force, for the woman's age and medical history; and (2) a pap test every six months for women who have tested HIV positive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	19a-490m
Sec. 2	*October 1, 2022*	20-10b(b)
Sec. 3	*July 1, 2022*	New section
Sec. 4	*October 1, 2022*	19a-266

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill results in no fiscal impact to the state as explained below.

Section 1 results in no fiscal impact as the Department of Public Health has sufficient expertise to handle the bill's requirements regarding investigating any alleged violations of intimate examination requirements.

Section 2 affects continuing medical education requirements, which has no fiscal impact to the state.

Section 3 requires the University of Connecticut Health Center to develop a plan to establish a specialized endometriosis program, which it has sufficient expertise to complete.

Section 4 makes certain changes to the Department of Public Health's breast and cervical cancer early detection and treatment referral program, which are not anticipated to have a fiscal impact as screening for tomosynthesis and testing for human papillomavirus are currently being performed.

House "A" eliminates the original bill and its associated fiscal impact and results in the impact described above.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5278 (as amended by House "A")*

AN ACT PROHIBITING AN UNAUTHORIZED INTIMATE EXAMINATION ON A PATIENT WHO IS UNDER DEEP SEDATION OR ANESTHESIA OR UNCONSCIOUS.

SUMMARY

This bill makes various unrelated changes affecting health care professions and institutions. Principally, it does the following:

1. requires hospitals and outpatient surgical facilities, by January 1, 2023, to develop and implement procedures to obtain, on a written or electronic form, a patient's express written consent to an "intimate examination" (i.e., pelvic, prostate, or rectal examination) (§ 1);

2. generally, requires hospitals and outpatient surgical facilities to obtain a patient's separate written consent if a medical student, resident, or fellow performs an intimate examination exclusively for training purposes and not as part of the patient's clinical care or clinical care team (§ 1);

3. allows physicians' continuing education in (a) risk management to address screening for endometriosis and (b) cultural competency to address the effects of systemic racism, explicit and implicit bias, racial disparities, and the experiences of transgender and gender diverse people on patient diagnosis, care, and treatment (§ 2);

4. requires UConn Health Center, in consultation with a research laboratory, to develop a plan to establish an endometriosis data and biorepository program and report to the Public Health

Committee by January 1, 2023, on the plan and its implementation timeline (§ 3); and

5. modifies the Department of Public Health (DPH) breast and cervical cancer early detection and treatment referral program by, among other things, requiring breast cancer screening to include tomosynthesis, where possible, and adding human papillomavirus (HPV) tests to the program's services (§ 4).

*House Amendment "A" replaces the original bill (File 231) with similar provisions on patient consent for intimate examinations. It removes the provisions in the underlying bill (1) specifying required information on patient consent forms and (2) requiring DPH to investigate alleged violations of written consent requirements. It also adds the provisions on (1) physicians' continuing medical education, (2) the endometriosis data and biorepository program, and (3) DPH breast and cervical cancer early detection and treatment referral program.

EFFECTIVE DATE: October 1, 2022, except that the provisions on (1) patient consent for intimate examinations take effect upon passage and (2) the endometriosis data and biorepository program take effect July 1, 2022.

§ 1 — PATIENT CONSENT FOR INTIMATE EXAMINATIONS

The bill requires hospitals and outpatient surgical facilities, by January 1, 2023, to develop and implement procedures to obtain, on a written or electronic form, a patient's express written consent to an intimate examination. They must make copies of these procedures and consent forms available to the DPH commissioner upon request.

It also requires health care providers at hospitals and outpatient surgical facilities to obtain this written consent before performing an intimate examination on a patient who will be unconscious or under deep sedation or general anesthesia. This consent is not required if the examination is within the scope of the patient's planned procedure, surgical procedure, or diagnostic examination for which he or she

provided general consent.

Under the bill, if a medical student, resident, or fellow performs an intimate examination on a patient exclusively for training purposes and not as part of the patient's clinical care or clinical care team, the hospital or outpatient surgical facility must obtain the patient's separate written consent. This consent must detail the medical student's, resident's, or fellow's involvement in the intimate examination.

The bill exempts from the above written patient consent requirements intimate examinations performed in an emergency or urgent care situation for diagnostic or treatment purposes.

Under the bill, "health care providers" are physicians; medical students, residents, and fellows; physician assistants; and advanced practice registered nurses.

§ 2 — PHYSICIAN CONTINUING EDUCATION

The bill allows physicians' continuing education in (1) risk management to address screening for endometriosis and (2) cultural competency to address the effects of systemic racism, explicit and implicit bias, racial disparities, and the experiences of transgender and gender diverse people on patient diagnosis, care and treatment. It applies to license registration periods on or after October 1, 2022.

As part of existing law's continuing education requirements, physicians must complete one contact hour each of risk management and cultural competency training or education (1) during their first license renewal period and (2) at least once every six years after that.

By law, physicians generally must complete 50 contact hours of continuing education every two years, starting with their second license renewal.

§ 3 — ENDOMETRIOSIS DATA AND BIOREPOSITORY PROGRAM

The bill requires UConn Health Center, in consultation with a research laboratory, to develop a plan to establish an endometriosis data

and biorepository program to promote (1) early detection of endometriosis in adolescents and adults, (2) new therapeutic strategies to treat and manage the condition, and (3) early access to the latest therapeutic options for patients.

Duties

Under the bill, in developing its plan, UConn Health Center must require that the endometriosis data and biorepository program do the following:

1. collect standardized phenotypic data along with biological samples of a person's endometriosis and control samples to improve the characterization of the condition and the person who has it;

2. develop standard operating procedures for retaining and storing biological endometriosis samples and control samples, including for their collection, transportation, processing, and long-term storage;

3. curate biological endometriosis samples from a diverse cross-section of communities to ensure they represent all groups affected by endometriosis, including black and Latino persons, other persons of color, transgender and gender diverse persons, and persons with disabilities;

4. research the pathogenesis, pathophysiology, progression, and prognosis of endometriosis and the development of noninvasive diagnostic biomarkers, novel targeted therapeutics, curative therapies, and preventive interventions for the condition, including medical and surgical interventions;

5. serve as a centralized resource for endometriosis information;

6. facilitate collaboration among researchers and health care professionals, educators, and students on best practices for the diagnosis, care, and treatment of endometriosis; and

7. research the impact of endometriosis on Connecticut residents, including its impact on health and comorbidity, health care costs, and overall quality of life.

Report

Under the bill, the UConn Health Center board of director's chairperson must report to the Public Health Committee, by January 1, 2023, on the plan and the timeline for establishing the program.

§ 4 — DPH BREAST AND CERVICAL CANCER EARLY DETECTION AND TREATMENT REFERRAL PROGRAM

By law, DPH's breast and cervical cancer early detection and treatment referral program provides services, within existing appropriations and through contracts with health care providers, to women who (1) have incomes at or below 250% of the federal poverty level, (2) are 21 to 64 years old, and (3) lack health insurance coverage for breast cancer screening mammography or cervical cancer screening services. The bill requires the program to give priority consideration to women in minority communities with higher rates of breast cancer and cervical cancer than the general population.

Under existing law, the program's services include clinical breast exams, screening mammograms, and pap tests. The bill requires the program's mammography services to include, where possible, tomosynthesis, which it defines as a digital x-ray mammogram that creates two- and three-dimensional images of the breasts. The bill additionally requires the program to include HPV tests. As under existing law, these services must be provided as recommended by the U.S. Preventive Services Task Force guidelines for the woman's age and medical history. By law, the program also includes pap tests every six months for women who are HIV positive.

BACKGROUND

Related Bills

HB 5303 (File 201), favorably reported by the Public Health

Committee, contains the same provisions on physician continuing medical education and establishing an endometriosis data and biorepository program.

SB 249 (File 96), favorably reported by the Public Health Committee, contains the same provisions on the DPH Breast and Cervical Cancer Early Detection and Treatment Referral Program.

COMMITTEE ACTION

Public Health Committee

Joint Favorable
Yea 31 Nay 0 (03/18/2022)