



2024 State Legislation Impacting the Practice of Elder Law

Scott Rosenberg, Legislative Chair

Fellow Members:

As promised at our last meeting of the bar year, I am pleased to provide this summary of legislative achievements and new laws impacting Connecticut seniors and other areas of our practices.

I must first thank the members of our Committee for their efforts this session: Kathleen Hayes, Lisa Davis, Ed Lang, Nicole O'Connor, and Sandy Sherlock-White, and our lobbyist, Melissa Biggs. I would like to give special recognition also to Steve Allaire, who after devotedly serving this committee for as long as I can remember, has elected to join so many of our clients in becoming a snowbird!

This session was a relatively quiet one for the committee. As reflected below, the whims of the legislature were overwhelmingly positive towards Connecticut seniors and related law practice; no benefit-cutting legislation obtained any significant momentum this year. Additionally, due to the condensed budget schedule, and a focus on allocating unspent federal COVID relief dollars, language and public hearings received as little as 36 hours' notice, making it next to impossible to obtain the approvals necessary to give testimony on behalf of the CBA.

To better address the latter, I hope to hold a policy-setting meeting later in the summer to identify legislative priorities and get input for a limited number of "blanket" positions that can be adopted prior to the upcoming "long" session and give us better coverage to advocate our interests as needed.

If you have any input on this, or our interested in trying the committee out, feel free to contact me at (203) 871-3830 or scott@scottrosenberglaw.com.

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Development of Presumptive Eligibility System for CHCPE

Public Act (P.A.) 24-39, slightly tweaked by the budget implementer, directs the DSS Commissioner to develop a system of presumptive eligibility for home care services under CHCPE, to remain in effect for at least two years. Under the terms of the statute, the Department

is to develop a screening tool to ascertain an applicant's likely financial and functional eligibility. If an applicant passes the screening and submits a completed W-1LTSS within ten days, the access agency will place caregivers in the home for up to 90 days, during which time DSS must complete the eligibility determination process. If documentation shows that the individual is not financially eligible (or if the applicant has not provided all required documentation within the 90-day period, we assume), then aides/services will be withdrawn until benefits can be awarded via the traditional route. The program will be codified in C.G.S. § 17b-274(e), effective 7/1/2024¹

This program is not available immediately. The law directs DSS to create the program and implement it when ready, without a specified time frame. We are mindful that after some attrition in the senior/policy staff ranks of DSS, new waiver and service enhancements that were due to be announced last March remain pending, so this could take some time. Additionally, the new law states that the program can be terminated after two years "if the commissioner determines that the system is not cost effective," which, given the inevitability of at least some ineligible individuals receiving services under presumptive eligibility, amounts to at-will cancellation.

Tracking progress on this, and lobbying for its preservation, will be an ongoing priority in our legislative efforts and in our meetings with the Commissioner's office.

A few benefits in the Budget. The Budget Implementer, P.A. 24-81, included a few items of note to our practice area beyond the presumptive eligibility tweaks. These include:

Medical Benefit Income/Asset Limits. The budget made three changes in this area: the income limit formula for HUSKY C was slightly increased, while the HUSKY A limit for caregivers was slightly lowered (§38, eff. 10/1). It also implements a phaseout in Med-Connect income and asset limits over next five years (§64, eff. 4/1/25).

Estate Recovery and Inheritance Liens. The budget additionally --

- Closed loophole that allowed estate recovery for care provided by state humane institutions (inpatient/residential care for mentally ill and intellectually disabled) after 2022 recovery rollback (§25)
- Clarified that there is no claim for costs of incarceration on erased² convictions (§31), and exempts the first \$50,000 of an inheritance from the 20-year costs of incarceration lien except in the case of felony murder, special circumstances murder, and A-felony sexual assaults (§32)

The **Uniform Trust Decanting Act** has been adopted in CT by P.A. 24-104, effective January 1, 2025. The adoption is largely a credit to the Estates & Probate Section, who has had a devoted subcommittee on this matter for several years.

¹ All cited statutes are already in effect as of July 1, 2024, unless otherwise specified.

² Erased convictions include dismissed charges, reversed convictions, expungements on application for subsequently decriminalized conduct, and automatic statutory expungement of most marijuana offenses.

Fostering Home Care and Consumer Protection

P.A. 24-39, titled *An Act Supporting Connecticut Seniors and the Improvement of Nursing and Home-Based Care*, though less headline-grabbing than presumptive eligibility, provides an array of positive, incremental benefits for the provision of community-based LTC. Benefits include --

- Creation of a home health exchange connecting seniors with caregivers/agencies (and optionally, potential caregivers with agencies) to be available on the DSS webpage.
- Requirement that home health workers have and wear photo ID badges.
- Funding to facilitate easier fingerprinting for background check of home health workers.
- Study on promoting opportunities for paid family caregivers, report due January, 2025.
- Requirement that ALFs provide thirty days written notice of change in operating entity.
- Assisted Living Consumer Guide to be developed and published by Ombudsman's office.

Improvement of Nursing Home Waiting Lists. P.A. 24-17 requires nursing homes to provide written guidance on how much completeness is required in an application to be placed on their waitlist, and requires facilities to migrate their waitlists to a digital format over the next year (presumably for better compliance tracking by the state).

Telemedicine Consumer Protection. P.A. 24-110 extends authorization for many telemedicine services which arose during the pandemic, and extends to next July the deadline for licensed out-of-state providers who remotely serve CT residents to register with DPH. It also requires providers to notify patients in advance whether the provider's services will be covered by the patient's insurance, and limits payment to typical insured charges unless a private uninsured rate is mutually agreed in advance.

Restriction on SNF Room Size. As of July, 2026, P.A. 24-141 prohibits new admittees to nursing homes from being placed in rooms with more than two beds.

Medical Debt Consumer Protection. P.A. 24-6 makes it unlawful to report (or cause/authorize their debt collector to report) any in-state medical debt to a credit reporting agency, including nursing home and hospital charges, and voids the underlying debt as penalty for any violations.

Caregiver Protection from Combative Patients. P.A. 24-19 implements training, tracking, and reporting requirements for physical assault by patients against paid caregivers (both in-home and institutional), and provide in-home staff with patient history and neighborhood information that may be pertinent to their workplace safety. A study, working group, and some grant funds are also allotted. Third party provisions come into effect starting October 1, 2024.

Lastly, the **legislature is not happy with DSS delays**. Special Act 24-4 requires the Commissioner to study wait times for granting of applications as well as telephone assistance, and report back to the legislature with wait time statistics and recommendations for more efficiently by October 1.