

National Association of Social Workers, Connecticut Chapter

Connecticut Statutes and Regulations Related to the Practice of Social Work

Prepared by: Robert G. Madden, LCSW,JD  
Professor of Social Work, Saint Joseph College  
Instructor of Law, University of Connecticut School of Law  
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Please note that statutes and regulations are subject to change. Consult the most recent versions of all materials collected here to ensure you have the most recent language. These materials have been excerpted to include sections most relevant to social work practice; however, this material does not contain each statute or regulation in its entirety. Editing has been done to focus on social work content. Bold type has been added to emphasize

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# Section 1: Licensure of Social Workers, Requirements to work as a social worker in Connecticut.

Conn. Gen. Stat. § 20-195m Licensure Statute:

### ***Definitions.***

***(1) "Licensed clinical social worker" means a person who has been licensed***

*pursuant to this chapter;*

***(2) "Commissioner"*** means the Commissioner of Public Health;

***(3) "Department"*** means the Department of Public Health; and

***(4) "Clinical social work"*** means the application, by persons trained in social work, of established principles of psychosocial development, behavior, psychopathology, unconscious motivation, interpersonal relationships and environmental stress to the evaluation, assessment, diagnosis and treatment of biopsychosocial dysfunction,

disability and impairment, including mental, emotional, behavioral, developmental and addictive disorders, of individuals, couples, families or groups. Clinical social work includes, but is not limited to, counseling, psychotherapy, behavior modification and mental health consultation.

### ***Licensure requirements, Sec. 20-195n.***

(a) No person shall practice clinical social work unless such person has obtained a license pursuant to this section. Applicants for licensure as a clinical social worker shall:

- Hold a doctorate or master's degree from a social work program accredited by the Council on Social Work Education or, if educated outside the United States or its territories, have completed an educational program deemed equivalent by said council;
- have three thousand hours post-master's social work experience which shall include not less than one hundred hours of work under professional supervision by a licensed clinical or certified independent social worker; and
- pass the clinical level examination of the American Association of State Social Work Boards or any other examination prescribed by the commissioner.

### **License by Endorsement:**

(b) Notwithstanding the provisions of subsection (a) of this section, the commissioner may grant a license by endorsement to an applicant who presents evidence satisfactory to the commissioner that the applicant

- is licensed or certified as a clinical social worker in good standing in another state or jurisdiction whose requirements for practicing in such capacity are substantially similar to or higher than those of this state, and
- has successfully completed the clinical level examination of the Association of Social Work Boards, or its successor organization. No license shall be issued under this subsection to any applicant against whom professional disciplinary action is pending or who is the subject of an unresolved complaint.

### **Application and Fees, Sec. 20-195o.**

(a) Application for licensure shall be on forms prescribed and furnished by the commissioner. Each applicant shall furnish evidence satisfactory to the commissioner that he has met the requirements of section 20-195n.

The application fee shall be two hundred fifty dollars.

(b) Notwithstanding the provisions of section 20-195n concerning examinations, the commissioner may issue a license without examination, prior to January 1, 1998, to any applicant who offers proof to the satisfaction of the commissioner that he met the requirements of subdivisions (1) and (2) of section 20-195n and was an employee of the federal government with not less than three thousand hours postmaster's social work experience prior to October 1, 1986.

### **License Renewal/Continuing Education**

(c) (1) Each person licensed pursuant to this chapter may apply for renewal of such licensure in accordance with the provisions of subsection (e) of section 19a-88. A fee of one hundred fifty dollars shall accompany each renewal application. Each such applicant shall furnish evidence satisfactory to the commissioner of having participated in continuing education. The commissioner shall adopt regulations in accordance with chapter 54 to (A) define basic requirements for continuing education programs, (B) delineate qualifying programs, (C) establish a system of control and reporting, and (D) provide for waiver of the continuing education requirement for good cause.

### **School Social Worker Exceptions, CEU equivalent to CEC for license renewal:**

(2) A person licensed pursuant to this chapter who holds a professional educator certificate that is endorsed for school social work and issued by the State Board of Education pursuant to sections 10-144o to 10-149, inclusive, may satisfy the continuing education requirements contained in regulations adopted pursuant to this section by successfully completing professional development activities pursuant to subsection (1) of section 10-145b, provided the number of continuing education hours completed by such person is equal to the number of hours per registration period required by such regulations. For purposes of this subdivision, "registration period" means the one-year period during which a license has been renewed in accordance with section 19a-88 and is current and valid.

### ***Disciplinary action; Grounds, Sec. 20-195p.***

The commissioner may take any action set forth in section 19a-17 if the license holder fails to conform to the accepted standards of the social work profession, including, but not limited to, the following: Conviction of a felony; fraud or deceit in obtaining or seeking reinstatement of a license to practice clinical social work; fraud or deceit in the practice of social work; negligent, incompetent or wrongful conduct in professional

activities; emotional disorder or mental illness; physical illness, including, but not limited to, deterioration through the aging process; abuse or excessive use of drugs, including alcohol, narcotics or chemicals; wilful falsification of entries in any hospital, patient or other record pertaining to social work; violation of any provision of this chapter or any regulation adopted hereunder.

The Commissioner of Public Health may order a license holder to submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is the subject of an investigation. Said commissioner may petition the superior court for the judicial district of Hartford to enforce such order or any action taken pursuant to said section 19a-17. Notice of any contemplated action under said section 19a-17, of the cause therefor and the date of hearing thereon, shall be given and an opportunity for hearing afforded as provided in the regulations adopted by the commissioner.

### ***Use of title, Sec. 20-195q.***

Certain activities not prohibited.

(a) No persons, except those licensed pursuant to this chapter, shall (1) use the title "**licensed clinical social worker**" or any initials associated with such titles, or (2) advertise services under the description of a licensed clinical social worker as defined in section 20-195m.

(b) Nothing in this section shall prohibit:

- (1) A student enrolled in a doctoral or master's degree program accredited by the Council on Social Work Education from performing such work as is incidental to his course of study, provided such person is designated by a title which clearly indicates his status as a student;
- (2) a person holding a doctoral or master's degree from a program accredited by the Council on Social Work Education from gaining social work experience under professional supervision, provided such activities are necessary to satisfy the work experience required by section 20-195n and such person is designated as "social work intern", "social work trainee" or other title clearly indicating the status appropriate to his level of training;
- (3) a person licensed or certified in this state in a field other than clinical social work from practicing within the scope of such license or certification;
- (4) a person enrolled in an educational program or fulfilling other state requirements leading to licensure or certification in a field other than social work from engaging in work in such other field; or
- (5) a person who is employed or retained as a social work designee, social worker, or social work consultant by a nursing home or rest home licensed under section 19a-490 and who meets the qualifications prescribed by the department

in its regulations from performing the duties required of them in accordance with state and federal laws governing those duties.

**Sec. 20-195r. Use of title by certain persons employed by the state in the classified service prior to October 1, 1996.** Nothing in sections 20-195 to 20-195q, inclusive, shall prevent any person employed by the state prior to October 1, 1996, with a title in the social work series of the classified service from using a title in such series to describe or perform his duties in the course of his employment with the state.

## **Department of Public Health (DPH) Regulations for LCSWs**

### ***LCSW Licensing Requirements***

An applicant for licensure by examination shall meet the following requirements:

- Hold a master's or doctorate degree from a social work program accredited by the Council on Social Work Education;
- Successfully completed three thousand (3000) hours of post-master's social work experience including not less than one hundred (100) hours of work experience under professional supervision by a licensed clinical or certified independent social worker;
- Successfully completed the Clinical Level Examination of the Association of Social Work Boards.

### ***Documentation Requirements***

- Applicants must arrange for the submission of the following documentation directly to the DPH office from the source:
- A completed, notarized [application](#) with photograph and fee of \$250.00. The fee must be in the form of a bank check or money order made payable to "Treasurer, State of Connecticut";
- Official transcript verifying the award of a master's or doctorate degree from an accredited social work program;
- Official verification, sent directly from each state licensing authority where a license is or has ever been held. Please contact the [state](#) first as a fee may be required for completion of the [form](#);



- Verification of employment [form](#) documenting completion of 3,000 hours post-master's work experience;
- Verification of supervision [form](#) documenting completion of 100 hours of work experience under professional supervision by a licensed clinical or certified independent social worker;
- A report of successful completion of the Clinical Level Examination ([ASWB](#)).

### ***Examination Registration Procedure***

Applicants who need to sit for the examination will be notified by the Department regarding eligibility and will be provided with information on how to register for the examination once all required documentation has been received and reviewed.

The ASWB Candidate [Handbook](#) contains information on the examination, registration, admission to the examination and ADA accommodations.

Applicant's who use English as a Second Language (ESL) and require special accommodation for the examination should complete the request [form](#), have it notarized and submit it with the completed Connecticut licensing application. Once an applicant has been determined eligible for examination, the Department will notify the applicant in writing and will notify the ASWB of the candidate's approval.

### ***Continuing Education for Clinical Social Workers (DPH Regulations)***

#### **Definitions, 20-195o(c)-1.**

For the purposes of sections 20-195o(c)-1 to 20-195o(c)-7, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Active practice" means the treatment in Connecticut of one or more patients by a licensee during any given registration period;
- (2) "Certificate of completion" means a document issued to a participant by a provider which certifies that the participant has successfully completed a continuing education activity;
- (3) "Contact hour" means a minimum of fifty minutes of continuing education activity;
- (4) "Department" means the Department of Public Health;
- (5) "Face-to-face instruction" means in-person, live instruction which a participant physically attends, either individually or as a part of a group of participants;

- (6) "Home study program" means continuing education activities clearly related to maintaining skills necessary for the safe and competent practice of clinical social work that require successful completion of a proficiency examination, and may include distance learning and internet-based educational programs;
- (7) "Licensee" means a clinical social worker licensed pursuant to Section 20-195n of the Connecticut General Statutes;
- (8) "License renewal due date" means the last day of the month of the licensee's date of birth;
- (9) "Participant" means a licensee who successfully completes a continuing education activity;
- (10) "Provider" means the individual educator or sponsoring organization conducting a continuing education activity; and
- (11) "Registration period" means the one-year period during which a license has been renewed in accordance with Section 19a-88 of the Connecticut General Statutes and is current and valid.

### **Number of credits required, 20-195o(c)-2.**

- (a) Each licensee applying for license renewal shall have completed a minimum of **fifteen credit hours** of qualifying continuing education for clinical social workers during the preceding registration period.
- (b) Continuing education credit hours completed in one registration period shall not carry over to a subsequent registration period.
- (c) Each licensee applying for license renewal shall sign a statement attesting that he satisfies the continuing education requirements specified in section 20-195o(c)-1 to section 20-195o(c)-7 of the Regulations of Connecticut State Agencies.

### **Basic requirements for qualifying continuing education activities, 20-195o(c)-3.**

- (a) Continuing education activities shall meet the following requirements:
  - (1) The providers of continuing education are graduate schools of social work accredited by the Council on Social Work Education, or programs that are approved by the National Association of Social Workers, Association of Social Work Boards or other nationally recognized organization that demonstrates to the department that their standards are substantially similar;
  - (2) the activity involves face-to-face instruction or a home study program;
  - (3) the provider implements a mechanism to monitor and document physical attendance at such instruction or to verify that a licensee completed a home study program as defined in section 20-195o(c)-1(6) of the Regulations of Connecticut State Agencies;

(4)the provider retains written records for a period of three years from the participant's actual successful completion of the activity, including but not limited to: content description; instructor; date of activity; location of activity; list of participants; participant's evaluation of instruction presented and number of contact hours; and

(5)the provider issues a certificate of completion after the participant's successful completion of the activity. Such certificate shall include the participant's name, provider's name, title or subject area of the activity, date and location of attendance and number of contact hours completed.

(b)Subject matter for qualifying continued education activities shall reflect the scope of practice authorized under Chapter 383b of the Connecticut General Statutes.

(c)Activities which do not qualify for award of contact hours include: professional organizational business meetings; speeches delivered at luncheons or banquets; reading of books, articles, or professional journals; correspondence courses and other mechanisms of self instruction, except when used as a component of a home study program; and audio-visual materials, except when the latter is used as a component of a qualifying continuing education activity identified in subsection (a) of this section.

#### **Award of credit hours, 20-195o(c)-4.**

(a)Continuing education credit hours shall be awarded as follows:

(1)Courses, institutes, seminars, programs, clinics, conferences and teleconferences: one credit hour for each contact hour of attendance;

(2)graduate level coursework offered by schools of social work accredited by the Council on Social Work Education: one credit hour for each hour of attendance. Audited courses shall have hours of attendance documented;

(3)first presentation by licensee of an original paper, essay or formal lecture in clinical social work to a recognized group of fellow professionals at a scientific meeting: five credit hours; and

(4)original paper published by licensee in a professional journal that accepts papers only on the basis of independent review by experts: six credit hours for the first publication only of the material.

(b)Eight credit hours shall be the maximum continuing education credit hours granted for any one day's participation in the activities specified in subsection (a) of this section.

(c)Continuing education activity that provides content related to organizational structure, marketing and similar topics relating to **business management**, shall be limited to not more than **three contact hours** in any one registration period.

(d)Continuing education activities that are completed as part of a **home study** program shall be **limited to** not more than **six contact hours** in any one registration period.

(e)The licensee shall successfully complete a continuing education activity for award of any continuing education credit hours.

### **Record retention by licensees, 20-195o(c)-5.**

(a) Each licensee shall obtain a certificate of completion from the provider of continuing education activities successfully completed. Each licensee shall maintain, for continuing education activities specified in subsection (a) of section 20-195o(c)-4 of the Regulations of Connecticut State Agencies, written documentation of completion.

**Certificates of completion shall be retained** by the licensee for a minimum of **three years following the license renewal due date** for which the activity satisfies license renewal requirements.

(b) The department may inspect such licensee records as it deems necessary. Certificates of completion shall be submitted by the licensee to the department only upon the department's request. Such records shall be submitted to the department by the licensee within 45 days of the department's request.

(c) A licensee who fails to comply with the continuing education requirements of Sections 20-195o(c)-1 to 20-195o(c)-7 of the regulations of Connecticut State Agencies may be subject to disciplinary action, pursuant to section 20-195p of the Connecticut General Statutes.

### **Exemptions from and waiver of the continuing education requirements, 20-195o(c)-6.**

(a) A licensee applying for license renewal for the first time in Connecticut shall be exempt from continuing education requirements.

(b) A waiver of the continuing education requirement may be extended to a licensee who is not engaged in clinical social work during a given continuing education registration period provided he submits, prior to the expiration of the continuing education registration period, a notarized application on a form provided by the department. The application shall contain a statement that the licensee shall not engage in active practice until the licensee has shown proof, to the satisfaction of the department, of completion of the requirements specified in sections 20-195o(c)-1 to 20-195o(c)-7, inclusive, of the Regulations of Connecticut State Agencies.

(c) The department may, in individual cases involving a medical disability or illness, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the same. The application for a waiver or extension of time shall be accompanied by a document signed by a licensed physician detailing the nature of the medical disability or illness. Waivers of the minimum continuing education requirements or extensions of time may be granted by the department for a period not to exceed one (1) year. If the medical disability or illness, upon which a waiver or extension of time is granted continues beyond the period of the waiver or extension of time, the licensee may reapply for an additional waiver or extension of time.

**20-195o(c)-7. Requirements for return to active practice following waiver of the continuing education requirements**

(a) A licensee who has received a waiver, pursuant to subsection (b) of section 20-195o(c)-6 of the Regulations of Connecticut State Agencies, shall submit to the department evidence of successful completion of seven contact hours of continuing education within six months after returning to active practice.

**Other Statutory Language Related to Licensure**

***The following statutes allow social workers to practice in certain areas otherwise requiring a specific license:***

**Practice of alcohol and drug counseling**

**Sec. 20-74s. Licensure and certification of alcohol and drug counselors.**

(t) **Exception to licensure and certification.** Other health care providers. Nothing in this section shall be construed to apply to the activities and services of a person licensed or certified in this state to practice medicine and surgery, psychology, marital and family therapy, **clinical social work**, chiropractic, acupuncture, physical therapy, occupational therapy, nursing or any other profession licensed or certified by the state, **when acting within the scope of the person's profession** or occupation and doing work of a nature consistent with a person's training, **provided the person does not hold himself out to the public as possessing a license or certification** issued pursuant to this section.

**Practice of psychology**

**Sec. 20-187a. License required. Practice defined. No person shall practice psychology unless he has obtained a license**

Sec. 20-195. Exempted activities and employment. (a)...Nothing in this chapter shall be construed to prevent the giving of accurate information concerning education and experience by any person in any application for employment. **Nothing in this chapter shall be construed to prevent** physicians, optometrists, chiropractors, members of the

clergy, attorneys-at-law or **social workers from doing work of a psychological nature consistent with accepted standards in their respective professions.**

**The following state regulations from the State Department of Education govern the eligibility to be certified as a school social worker in Connecticut:**

### **Practice as a School Social Worker**

Master's degree in social work from a school of social work accredited by the Council on Social Work Education.

All applicants who do not hold a valid Connecticut educator certificate must meet the following requirements:

- Praxis I Pre-Professional Skills Tests (PPST): paper-based or
- Praxis I Pre-Professional Skills Tests (PPST): computerized or
- Waiver

AND

A course of study in special education comprised of not fewer than 36 clock hours, which shall include study in understanding the growth and development of exceptional children, including handicapped and gifted and talented children and children who may require special education, and methods for identifying, planning for and working effectively with special-needs children in the regular classroom.

### **Practice in Skilled Nursing Facility**

**The following state regulations from the Department of Public Health govern the provision of social work services in skilled nursing facilities:**

**19-13-D8t. Chronic and convalescent nursing homes and rest homes with nursing supervision**

(s) Social Work.

- (1) Definitions:
  - (A) **Social Work Designee** A social work designee shall have at least an associate's degree in social work or in a related human service field. Any person employed as a social work designee on January 1, 1989 shall be eligible to continue in the facility of employment without restriction.
  - (B) **Qualified Social Worker** A qualified social worker shall hold at least a bachelor's degree in social work from a college or university which was accredited by the Council on Social Work Education at the time of his or her graduation, and have at least one year social work experience in a health care facility. An individual who has a bachelor's degree in a field other than social work and a certificate in Post Baccalaureate Studies in Social Work awarded before the effective date of these regulations by a college accredited by the Department of Higher Education, and at least one year social work experience in a health care facility, may perform the duties and carry out the responsibilities of a qualified social worker for up to three years after the effective date of these regulations.
  - (C) **Qualified Social Work Consultant** A qualified social work consultant shall hold at least a master's degree in social work from a college or university which was accredited by the Council on Social Work Education at the time of his or her graduation and have at least one year post-graduate social work experience in a health care facility. An individual who holds a bachelor's degree in social work from a college or university which was accredited by the Council on Social Work Education at the time of his or her graduation, and is under contract as a social work consultant on January 1, 1989, shall be eligible to continue functioning without restriction as a social work consultant in the facility(ies) which had contracted his or her services.
- (2) Each facility shall employ social work service staff to meet the social and emotional problems and/or needs of the patients based on their medical and/or psychiatric diagnosis.
- (3) The administrator of the facility shall designate in writing a qualified social worker or social work designee as responsible for the social work service.
- (4) The social work service shall be directed by a qualified social worker or a social work designee. **If the service is under the direction of a social work designee the facility shall contract for the regular consultation of a qualified social work consultant at least on a quarterly basis.**
- (5) Social work service staff shall be employed in each facility sufficient to meet the needs of the patients but not less than the following **ratio of hours per week to the number of licensed beds** in the facility:
  - (A) One (1) to thirty (30) beds, ten (10) hours per week.

- (B) Thirty-one (31) to sixty (60) beds, twenty (20) hours per week.
  - (C) Each additional thirty (30) beds or fraction thereof, ten (10) additional hours.
- (6) Written social work service policies and procedures shall be developed and implemented by a qualified social worker, or social work designee under the direction of a qualified social work consultant, and ratified by the governing body of the facility. Such standards shall include, but not be limited to:
- (A) Ensuring the confidentiality of all patients' social, emotional, and medical information, in accordance with the General Statutes of Connecticut Section 19a-550 (a) (8).
  - (B) Requiring a prompt referral to an appropriate agency for patients or families in need of financial assistance and requiring that a record is maintained of each referral to such agency in the patient's medical record.
- (7) The social work service shall help each patient to adjust to the social and emotional aspects of the patient's illness, treatment, and stay in the facility. The medically related social and emotional needs of the patient and family shall be identified, a plan of care developed, and measurable goals set in accordance with the Regulations of Connecticut State Agencies Sections 19-13-D8t (o) (2) (H) and (o) (2) (I).
- (8) All staff of the facility shall receive inservice training by or under the direction of a qualified social worker or social work designee each year concerning patients' personal and property rights pursuant to Section 19a-550 of the Connecticut General Statutes.
- (9) All staff of the facility shall receive inservice training by a qualified social worker or qualified social work consultant each year in an area specific to the needs of the facility's patient population.
- (10) A qualified social worker or social work designee shall participate in planning for the discharge and transfer of each patient.
- (11) Office facilities shall be easily accessible to patients and staff or alternate arrangements shall be available. Each facility shall ensure privacy for interviews between staff and: patients, patients' families and patients' next friend.

***Professional Assistance Program for Health Care Professionals [PA 07-103](#)***

NEW - Effective June 11, 2007



This act **allows state or local health care professional societies and organizations** to establish a **single assistance program** to serve all health care professionals. The assistance program must have one or more medical review committees. A “medical review committee” is a committee that reviews and monitors participation by health care professionals in the assistance program.

**The assistance program is an alternative, voluntary, and confidential program to rehabilitate health care professionals.** It must provide a variety of **educational, rehabilitative, and supportive services to health care professionals with a chemical dependency, emotional or behavioral disorder, or physical or mental illness.** It must include **mandatory, periodic evaluations of each participant's ability to practice with skill and safety and without posing a threat to the health and safety of any person or patient in the health care setting.**

The program must annually report certain information to the Department of Public Health (DPH), licensing boards, and the Public Health Committee.

The program is available to: physicians and surgeons, physician assistants, chiropractors, naturopaths, homeopathic physicians, podiatrists, athletic trainers, physical therapists, occupational therapists, alcohol and drug counselors, radiographers and radiologic technologists, nurse-midwives, nurses, dentists, dental hygienists, optometrists, opticians, respiratory care practitioners, psychologists, marital and family therapists, **clinical social workers**, professional counselors, veterinarians, massage therapists, dietitian-nutritionists, acupuncturists, paramedics, hearing instrument specialists, speech pathologists and audiologists, and embalmers and funeral directors.

A medical review committee must determine a person's appropriateness for the program before admittance. The act specifies various confidentiality provisions concerning the program and participation by health care professionals.

DPH must establish an oversight committee to monitor program quality. The oversight committee must meet with the assistance program on a regular basis; the program must also undergo an annual audit.

## **Section 2: Social Work Privilege, Evidence and Testimony Statutes**

## ***Social Work Privileged Communications Statute***

§ 52-146q. Disclosure of confidential communications between social worker and person consulting such social worker prohibited.

(a) Definitions of terms used in this section:

- (1) "**Person**" means an individual who consults a social worker for purposes of evaluation or treatment;
- (2) "**Social worker**" means an individual licensed as a clinical social worker pursuant to chapter 383b or an individual reasonably believed by the person to be so licensed;
- (3) "**Communications and records**" means all oral and written communications and records thereof relating to the evaluation or treatment of a person between such person and a social worker, or between a member of such person's family and a social worker, or between such person or a member of such person's family and an individual participating under the supervision of a social worker in the accomplishment of the objectives of evaluation or treatment, wherever made;
- (4) "**Consent**" means consent given in writing by the person or his authorized representative;
- (5) "**Authorized representative**" means (A) an individual empowered by a person to assert the confidentiality of communications and records under this section, or (B) if a person is deceased, his administrator or executor or, in the absence of such fiduciary, his next of kin, or (C) if a person has been declared incompetent to assert or waive his privileges under this section, a guardian or conservator who is duly appointed to act for the person;
- (6) "**Mental health facility**" includes any hospital, clinic, ward, social worker's office or other facility, public or private, which provides inpatient or outpatient service, in whole or in part, relating to the diagnosis or treatment of a person's mental condition.

(b) All communications and records shall be confidential and, except as provided in subsection (c) of this section, a social worker shall not disclose any such communications and records unless the person or his authorized representative consents to such disclosure. Any consent given shall specify the individual or agency to which the communications and records are to be disclosed, the scope of the communications and records to be disclosed, the purpose of the disclosure and the expiration date of the consent. A copy of the consent form shall accompany any communications and records disclosed. The person or his authorized representative may withdraw any consent given under the provisions of this section at any time by written notice to the individual with whom or the office in which the original consent was filed. The withdrawal of consent shall not affect communications and records disclosed prior to notice of the withdrawal, except that such communications and records may not be redisclosed after the date of the notice of withdrawal.

## **Exceptions:**

(c) Consent of the person shall not be required for the disclosure or transmission of such person's communications and records in the following situations as specifically limited:

(1) Communications and records may be disclosed to other individuals engaged in the diagnosis or treatment of the person or may be transmitted to a mental health facility to which the person is admitted for diagnosis or treatment if the social worker in possession of the communications and records determines that the disclosure or transmission is needed to accomplish the objectives of diagnosis or treatment, or when a social worker, in the course of evaluation or treatment of the person, finds it necessary to disclose the communications and records for the purpose of referring the person to a mental health facility. The person shall be informed that the communications and records have been so disclosed or transmitted. For purposes of this subdivision, individuals in professional training are to be considered as engaged in the diagnosis or treatment of the person.

(2) Communications and records may be disclosed when a social worker determines that there is a substantial risk of imminent physical injury by the person to himself or others, or when disclosure is otherwise mandated by any provision of the general statutes.

(3) Communications and records made in the course of an evaluation ordered by a court may be disclosed at judicial proceedings in which the person is a party provided the court finds that the person has been informed before making the communications that any communications and records may be so disclosed and provided further that communications and records shall be admissible only on issues involving the person's mental condition.

(4) Communications and records may be disclosed in a civil proceeding in which the person introduces his mental condition as an element of his claim or defense or, after the person's death, when his condition is introduced by a party claiming or defending through or as a beneficiary of the person. For any disclosure under this subdivision, the court shall find that it is more important to the interests of justice that the communications and records be disclosed than that the relationship between the person and the social worker be protected.

(5) If a social worker makes a claim for collection of fees for services rendered, the name and address of the person and the amount of the fees may be disclosed to individuals or agencies involved in such collection, provided written

notification that such disclosure will be made is sent to the person not less than thirty days prior to such disclosure. In cases where a dispute arises over the fees or claims or where additional information is needed to substantiate the fees or claims, the disclosure of further information shall be limited to the following: (A) That the person did in fact receive the services of the social worker, (B) the dates and duration of such services, and (C) a general description of the types of services.

### ***Miscellaneous statutes related to evidence and trials:***

#### **Depositions:**

**The following statute sets out the requirements for a deposition and the options available to contest a subpoena that requests privileged material.**

**Sec. 52-148e. Issuance of subpoena for taking of deposition. Deposition to be used in federal court or court of other state or foreign country.** (a) Each judge or clerk of any court, justice of the peace, notary public or Commissioner of the Superior Court, in this state, may issue a subpoena, upon request, for the appearance of any witness before him to give his deposition in a civil action or probate proceeding, if the party seeking to take such person's deposition has complied with the provisions of sections 52-148a and 52-148b and may take his deposition, each adverse party or his agent being present or notified.

(b) The subpoena may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers, documents or tangible things which are material to the cause of action or the defense of the party at whose request the subpoena was issued and within the possession or control of the person to be examined. **However, no subpoena may compel the production of matters which are privileged or otherwise protected by law from discovery.**

(c) Any person to whom a subpoena commanding production of books, papers, documents or tangible things has been directed may, within fifteen days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than fifteen days after service, serve upon the issuing authority designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party at whose request the subpoena was issued shall not be entitled to inspect and copy the disputed materials except pursuant to an order of the court in which the cause is pending. The party who requested the

subpoena may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.

(d) The court in which the cause is pending may, upon motion made promptly and in any event at or before the time for compliance specified in a subpoena authorized by subsection (b) of this section, (1) quash or modify the subpoena if it is unreasonable and oppressive or if it seeks the production of materials not subject to production under the provisions of subsection (b) of this section, or (2) condition denial of the motion upon the advancement by the party who requested the subpoena of the reasonable cost of producing the materials which he is seeking.

(e) If any person to whom a lawful subpoena is issued under any provision of this section fails without just excuse to comply with any of its terms, the court before which the cause is pending, or any judge thereof, may issue a writ of habeas corpus and cause him to be brought before such court or judge, as the case may be, and, if the person subpoenaed refuses to comply with said subpoena, such court or judge may commit him to jail until he signifies his willingness to comply with it.

## **Expert Witness Testimony**

### **Sec. 52-184c. Standard of care in negligence action against health care provider.**

**Qualifications of expert witness.** (a) In any civil action to recover damages resulting from personal injury or wrongful death occurring on or after October 1, 1987, in which it is alleged that such injury or death resulted from the negligence of a health care provider, as defined in section 52-184b, the claimant shall have the burden of proving by the preponderance of the evidence that the alleged actions of the health care provider represented a breach of the prevailing professional standard of care for that health care provider. **The prevailing professional standard of care for a given health care provider shall be that level of care, skill and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.**

(b) If the defendant health care provider is not certified by the appropriate American board as being a specialist, is not trained and experienced in a medical specialty, or does not hold himself out as a specialist, a "similar health care provider" is one who: (1) Is licensed by the appropriate regulatory agency of this state or another state requiring the same or greater qualifications; and (2) is trained and experienced in the same discipline or school of practice and such training and experience shall be as a result of the active involvement in the practice or teaching of medicine within the five-year period before the incident giving rise to the claim.

(c) If the defendant health care provider is certified by the appropriate American

board as a specialist, is trained and experienced in a medical specialty, or holds himself out as a specialist, a "similar health care provider" is one who: (1) Is trained and experienced in the same specialty; and (2) is certified by the appropriate American board in the same specialty; provided if the defendant health care provider is providing treatment or diagnosis for a condition which is not within his specialty, a specialist trained in the treatment or diagnosis for that condition shall be considered a "similar health care provider".

(d) Any health care provider may testify as an expert in any action if he: (1) Is a "similar health care provider" pursuant to subsection (b) or (c) of this section; or (2) is not a similar health care provider pursuant to subsection (b) or (c) of this section but, to the satisfaction of the court, possesses sufficient training, experience and knowledge as a result of practice or teaching in a related field of medicine, so as to be able to provide such expert testimony as to the prevailing professional standard of care in a given field of medicine. Such training, experience or knowledge shall be as a result of the active involvement in the practice or teaching of medicine within the five-year period before the incident giving rise to the claim.

## ***Statutory Language related to liability and malpractice***

### **Billing for Service**

#### **Sec. 52-184b. Failure to bill and advance payments inadmissible in malpractice cases.**

(a) For the purposes of this section, "health care provider" means any person, corporation, facility or institution licensed by this state to provide health care or professional services, or an officer, employee or agent thereof acting in the course and scope of his employment.

(b) **The failure of a health care provider to bill a patient for services rendered shall not be construed as an admission of liability** and shall not be admissible in evidence as to liability in any trial for malpractice, error or omission against a health care provider in connection with the provision of health care or professional services.

(c) Any advance payment for medical bills by a health care provider or by the insurer of a health care provider shall not be construed as an admission of liability and shall not be admissible in evidence as to liability in any trial for malpractice, error or

omission against a health care provider in connection with the provision of health care or professional services.

## **Apology Statute**

**Sec. 52-184d. Inadmissibility of apology made by health care provider to alleged victim of unanticipated outcome of medical care.** (a) For the purposes of this section:

(1) "Health care provider" means a provider, as defined in subsection (b) of section 20-7b, or an institution, as defined in section 19a-490, and includes a health care institution or facility operated by the state;

(2) "Relative" means a victim's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister or spouse's parents, and includes such relationships that are created as a result of adoption and any person who has a family-type relationship with a victim;

(3) "Representative" means a legal guardian, attorney, health care representative or any person recognized in law or custom as a patient's agent; and

(4) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

(b) **In any civil action brought by an alleged victim of an unanticipated outcome of medical care, or in any arbitration proceeding related to such civil action, any and all statements, affirmations, gestures or conduct expressing apology, fault, sympathy, commiseration, condolence, compassion or a general sense of benevolence that are made by a health care provider or an employee of a health care provider to the alleged victim, a relative of the alleged victim or a representative of the alleged victim and that relate to the discomfort, pain, suffering, injury or death of the alleged victim as a result of the unanticipated outcome of medical care shall be inadmissible as evidence of an admission of liability or as evidence of an admission against interest.**

# Section 3: Medical Records Statutes

## ***Access to Medical Records:***

Pursuant to Connecticut General Statutes and Regulations of Connecticut State Agencies, practitioners of the healing arts are required to maintain medical records for a specific period of time.

Upon a written request of a patient, the patient's attorney or authorized representative, or pursuant to a written authorization, a provider, except as provided in Section 4-194 of the Connecticut General Statutes, shall furnish to the person making such request a copy of the patient's health record, .... No provider shall charge more than forty-five cents per page and the cost of first class postage, if applicable, for furnishing a health record pursuant to this subsection, ... provided no such charge shall be made for furnishing a health record or part thereof to a patient, his attorney or authorized representative if the record or part thereof is necessary for the purpose of supporting a claim or appeal under any provision of the Social Security Act and the request is accompanied by documentation of the claim or appeal. A provider shall furnish a health record request pursuant to this section within thirty days of the request.

If a provider, as defined in Section 2-7b of the General Statutes reasonably determines that the information is detrimental to the physical or mental health of the patient, or is likely to cause the patient to harm himself or another, he may withhold the information from the patient. The information may be supplied to an appropriate third party or to another provider who may release the information to the patient. If disclosure of information is refused by a provider under this subsection, any person aggrieved thereby may, within thirty days of such refusal, petition the superior court for the judicial district in which he resides for an order requiring the provider to disclose the information. Such a proceeding shall be privileged with respect to assignment for trial. The court, after hearing and an in camera review of the information in question, shall issue the order requested unless it determines that such disclosure would be detrimental to the physical or mental health of the person or is likely to cause the person to harm himself or another.

The provisions of this section shall not apply to any information relative to any psychiatric or psychological problems or conditions.

## ***Retention of Records***



**Department of Public Health (DPH) Regs. § 19a-14-42).** An individual provider must retain a patient's medical records for **seven years** after the last treatment date, or three years from the patient's death.

### ***Authorization for release of information:***

Any consent given shall specify the individual or agency to which the communications and records are to be disclosed; the scope of the communications and records to be disclosed; the purpose of the disclosure; and the expiration date of the consent. A copy of the consent form shall accompany any communications and records disclosed.

The person or his/her authorized representative may withdraw consent at any time by written notice to the individual clinician or the office in which the original consent was filed. The withdrawal of consent shall not affect communications and records disclosed prior to notice of the withdrawal, except that such communications and records may not be redisclosed after the date of the notice.

All written communications or records disclosed to another person or agency shall bear the following statement:

*"The confidentiality of this record is required under chapter 899 of the Connecticut general statutes. This material shall not be transmitted to anyone without written consent or other authorization as provided in the aforementioned statutes."*

*A copy of the consent form specifying to whom and for what specific use the communication or record is transmitted or a statement setting forth any other statutory authorization for transmittal and the limitations imposed thereon shall accompany such communication or record. In cases where the disclosure is made orally, the person disclosing the information shall inform the recipient that such information is governed by the provisions of Conn. Gen. Stats. §§ 52-146d to 52-146j, inclusive.*

### ***Releasing HIV-related Information***

In addition, if the material contains information related to the HIV status of the client, there is an added layer of protection for the privacy of the record. In order to release information on a client's HIV status, the client must specifically authorize the disclosure in writing. A general release form is insufficient. The consent to release HIV information must be signed, dated, and specific as to the purpose of the disclosure, to whom the disclosure will be made, and the time period for which the release is effective. (Conn. Gen. Stats. § 19a-581 (9)).

## ***Releasing Drug and Alcohol Treatment Information***

In the event that the record to be released contains information related to the client's substance abuse treatment, the information is protected by federal *Confidentiality of Drug and Alcohol Abuse Patient Records* regulations. All disclosures must be accompanied by the following statement. *"The information has been disclosed to you from records protected by Federal Confidentiality Rules (42 C.F.R. Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by written consent of the person to whom it pertains or as otherwise permitted by this regulation."* A general authorization for release of medical information is not sufficient for this purpose. The federal regulations restrict the use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

## ***Discontinuance of practice***

### **19a-14-44. Discontinuance of practice**

Upon the death or retirement of a practitioner, it shall be the responsibility of the practitioner or surviving responsible relative or executor to inform patients. This must be done by placing a notice in a daily local newspaper published in the community which is the prime locus of the practice. This notice shall be no less than two columns wide and no less than two inches in height. The notice shall appear twice, seven days apart. In addition, an individual letter is to be sent to each patient seen within the three years preceding the date of discontinuance of the practice. Medical records of all patients must be retained for at least sixty days following both the public and private notice to patients.

## **Section 4: Social Work related statutes in Education settings:**

### ***Statute restricting psychotropic drug recommendations in schools:***

Sec. 10-212b. **Policies prohibiting the recommendation of psychotropic drugs by school personnel.** (a) For purposes of this section, (1) "psychotropic drugs" means prescription medications for behavioral or social-emotional concerns, such as

attentional deficits, impulsivity, anxiety, depression and thought disorders, and includes, but is not limited to, stimulant medication and antidepressants, and (2) **"school health or mental health personnel"** means school nurses or nurse practitioners appointed pursuant to section 10-212, school medical advisors appointed pursuant to section 10-205, school psychologists, **school social workers**, school counselors and such other school personnel who have been identified as the person responsible for communication with a parent or guardian about a child's need for medical evaluation pursuant to a policy adopted by a local or regional board of education as required by subsection (b) of this section.

(b) **Each local and regional board of education shall adopt and implement policies prohibiting any school personnel from recommending the use of psychotropic drugs for any child. Such policies shall set forth procedures (1) for communication between school health or mental health personnel and other school personnel about a child who may require a recommendation for a medical evaluation,** (2) establishing the method in which school health or mental health personnel communicate a recommendation to a parent or guardian that such child be evaluated by an appropriate medical practitioner, and (3) for obtaining proper consent from a parent or guardian of a child for the school health or mental health personnel to communicate about such child with a medical practitioner outside the school who is not a school employee. The provisions of this section **shall not prohibit (A) school health or mental health personnel from recommending that a child be evaluated by an appropriate medical practitioner,** (B) school personnel from consulting with such practitioner with the consent of the parents or guardian of such child, (C) the planning and placement team from recommending a medical evaluation as part of an initial evaluation or reevaluation, as needed to determine a child's (i) eligibility for special education and related services, or (ii) educational needs for an individualized education program.

### ***Physical Evidence given to school employee***

#### **Sec. 10-154a. Professional communications between teacher or nurse and student.**

**Surrender of physical evidence obtained from students.** (a) As used in this section: (1) "School" means a public school as defined in section 10-183b or a private elementary or secondary school attendance at which meets the requirements of section 10-184; (2) a "professional employee" means a person employed by a school who (A) holds a certificate from the State Board of Education, (B) is a member of a faculty where certification is not required, (C) is an administration officer of a school, or (D) is a registered nurse employed by or assigned to a school; (3) a "student" is a person enrolled in a school; (4) a "professional communication" is any communication made privately and in confidence by a student to a professional employee of such student's school in the course of the latter's employment.

(b) Any such professional employee **shall not be required to disclose any information acquired through a professional communication with a student, when such information concerns alcohol or drug abuse** or any alcoholic or drug problem of such student but if such

employee **obtains physical evidence** from such student indicating that a crime has been or is being committed by such student, such employee shall be required to turn such evidence over to school administrators or law enforcement officials within two school days after receipt of such physical evidence, provided if such evidence is obtained less than two days before a school vacation or the end of a school year, such evidence shall be turned over within two calendar days after receipt thereof, excluding Saturdays, Sundays and holidays, and provided further **in no such case shall such employee be required to disclose the name of the student from whom he obtained such evidence** and such employee shall be **immune from arrest and prosecution for the possession** of such evidence obtained from such student.

(c) Any physical evidence surrendered to a school administration pursuant to subsection (b) of this section shall be turned over by such school administrator to the Commissioner of Consumer Protection or the appropriate law enforcement agency within three school days after receipt of such physical evidence, for its proper disposition, provided if such evidence is obtained less than three days before a school vacation or the end of a school year, such evidence shall be turned over within three calendar days from receipt thereof, excluding Saturdays, Sundays and holidays.

(d) Any such professional employee who, in good faith, discloses or does not disclose, such professional communication, shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed, and shall have the same immunity with respect to any judicial proceeding which results from such disclosure.

### ***Students arrested, notification to schools***

**Sec. 10-233h. Arrested students. Reports by police, disclosure, confidentiality. Police testimony at expulsion hearings.** If any person who is at least seven years of age but less than twenty-one years of age and an enrolled student is arrested for a violation of section 53-206c, a class A misdemeanor or a felony, the municipal police department or Division of State Police within the Department of Public Safety that made such arrest shall, not later than the end of the weekday following such arrest, **orally notify the superintendent of schools of the school district in which such person resides of the identity of such person and the offense or offenses for which he was arrested** and shall, within seventy-two hours of such arrest, provide written notification of such arrest, containing a brief description of the incident, to such superintendent. The superintendent shall maintain such written report in a secure location and the information in such report shall be maintained as confidential in accordance with section 46b-124.

**The superintendent may disclose such information only to the principal of the school** in which such person is a student or to the principal or supervisory agent of any other school in which the superintendent knows such person is a student. **The principal or supervisory agent may disclose such information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purposes of assessing the risk of danger posed by such person to himself, other students, school**

**employees or school property and effectuating an appropriate modification of such person's educational plan or placement, and for disciplinary purposes. If the arrest occurred during the school year, such assessment shall be completed not later than the end of the next school day.**

If an expulsion hearing is held pursuant to section 10-233d, a representative of the municipal police department or the Division of State Police, as appropriate, may testify and provide reports and information on the arrest at such hearing, provided such police participation is requested by any of the following: The local or regional board of education, the impartial hearing board, the principal of the school or the student or his parent or guardian. Such information with respect to a child under sixteen years of age shall be confidential in accordance with section 46b-124, and shall only be disclosed as provided in this section and shall not be further disclosed

### ***DCF notification to schools of potentially dangerous youth***

**Sec. 10-233k. Notification of school officials of potentially dangerous students. Provision of educational records of children returning to school from detention centers. (a) If the Department of Children and Families believes, in good faith, that there is a risk of imminent personal injury to the person or other individuals from a child in its custody who has been adjudicated a serious juvenile offender, the department shall notify the superintendent of schools for the school district in which such child may be returning to attend school or was attending prior to the adjudication of such determination, prior to the child's return.** The superintendent of schools shall notify the principal at the school the child will be attending that the child is potentially dangerous. The principal may disclose such information only to special services staff or a consultant, such as a psychiatrist, psychologist or social worker, for the purpose of assessing the risk of danger posed by such child to himself, other students, school employees or school property and effectuating an appropriate modification of such child's educational plan or placement and for disciplinary reasons.

## **Section 5: Social Work related statutes in Child welfare services**

## ***Mandated Reporting of child abuse/neglect***

**Sec. 17a-101. (Formerly Sec. 17-38a). Protection of children from abuse. Mandated reporters. Educational and training programs.** (a) The public policy of this state is: To protect children whose health and welfare may be adversely affected through injury and neglect; to strengthen the family and to make the home safe for children by enhancing the parental capacity for good child care; to provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes to require the reporting of suspected child abuse, investigation of such reports by a social agency, and provision of services, where needed, to such child and family.

(b) The following persons shall be mandated reporters: Any physician or surgeon licensed under the provisions of chapter 370, any resident physician or intern in any hospital in this state, whether or not so licensed, any registered nurse, licensed practical nurse, medical examiner, dentist, dental hygienist, psychologist, coach of intramural or interscholastic athletics, school teacher, school principal, school guidance counselor, school paraprofessional, school coach, **social worker**, ....

**Section 17a-101a.** Any mandated reporter, who in such person's **professional capacity** has reasonable cause to suspect or believe that any child under the age of eighteen years has been abused, as defined in section 46b-120, or has had nonaccidental physical injury, or injury which is at variance with the history given of such injury, inflicted upon such child **by a person responsible for such child's health, welfare or care or by a person given access to such child by such responsible person**, or is placed at imminent risk of serious harm by an act or failure to act on the part of such responsible person, or has been neglected, shall report or cause a report to be made.

### **Penalty for failure to report:**

Any person required to report under the provisions of this section who fails to make such report shall be fined **not less than five hundred dollars** nor more than **two thousand five hundred** dollars.

(d) Any mandated reporter, as defined in subsection (b) of this section, who fails to report to the Commissioner of Children and Families pursuant to section 17a-101a, as amended by this act, shall be required to participate in an educational and training program established by the commissioner. The program may be provided by one or more private organizations approved by the commissioner, provided the entire costs of the program shall be paid from fees charged to the participants, the amount of which shall be subject to the approval of the commissioner.

### **Timelines for Reporting:**

(a) An oral report shall be made by a mandated reporter **as soon as practicable but not later than twelve hours after the mandated reporter has reasonable cause** to suspect or believe that a child has been abused or neglected or placed in imminent risk of serious harm, by telephone or in person to the Commissioner of Children and Families or a law enforcement agency. If a law enforcement agency receives an oral report, it shall immediately notify the Commissioner of Children and Families.

(c) If the Commissioner of Children and Families, or the commissioner's designee, receives a report alleging sexual abuse or serious physical abuse, including, but not limited to, a report that: (1) A child has died; (2) a child has been sexually assaulted; (3) a child has suffered brain damage or loss or serious impairment of a bodily function or organ; (4) a child has been sexually exploited; or (5) a child has suffered serious nonaccidental physical injury, the commissioner shall, within twelve hours of receipt of such report, notify the appropriate law enforcement agency.

(d) Whenever a mandated reporter has reasonable cause to suspect or believe that any child has been **abused or neglected by a member of the staff of a public or private institution or facility** that provides care for such child **or a public or private school**, the mandated reporter shall report as required in subsection (a) of this section. The Commissioner of Children and Families or the commissioner's designee shall notify the person in charge of such institution, facility or school, unless such person is the alleged perpetrator of the abuse or neglect of such child. Such person in charge shall then immediately notify the child's parent or other person responsible for the child's care that a report has been made.

### **Protection for good faith mandated reporters**

**Sec. 17a-101e. Employers prohibited from discrimination against witness in child abuse proceeding. Penalty. Immunity for making report of child abuse in good faith. False report of child abuse. Penalty.** (a) No employer shall discharge, or in any manner discriminate or retaliate against, any employee who in good faith makes a report pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103, testifies or is about to testify in any proceeding involving child abuse or neglect. The Attorney General may bring an action in Superior Court against an employer who violates this subsection. The court may assess a civil penalty of not more than two thousand five hundred dollars and may order such other equitable relief as the court deems appropriate.

(b) Any person, institution or agency which, in good faith, makes, or in good faith does not make, the report pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103 shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such report provided such person did not perpetrate or cause such abuse or neglect.

(c) Any person who knowingly makes a false report of child abuse or neglect pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103, shall be fined not more than two thousand dollars or imprisoned not more than one year or both.

### **Timeline for DCF investigations:**

Upon receiving a report of child abuse or neglect in which the alleged perpetrator is (1) a person responsible for such child's health, welfare or care, (2) a person given access to such child by such responsible person, or (3) a person entrusted with the care of a child, the Commissioner shall cause the report to be classified and evaluated immediately. **If the report contains sufficient information to warrant an investigation**, the commissioner shall make best efforts to commence an investigation of a report concerning an imminent risk of physical harm to a child or other emergency **within two hours** of receipt of the report and shall commence an investigation of all other reports within seventy-two hours of receipt of the report. **The department shall complete any such investigation within thirty calendar days** of receipt of the report.

If the report is a report of child abuse or neglect in which the **alleged perpetrator is not a person specified in subdivision (1), (2) or (3)** of this subsection (**see section above**), the Commissioner of Children and Families shall **refer the report to the appropriate local law enforcement authority** for the town in which the child resides or in which the alleged abuse or neglect occurred.

(a) After the investigation has been completed and the Commissioner of Children and Families has reasonable cause to believe that sexual abuse or serious physical abuse of a child has occurred, the commissioner shall notify the appropriate local law enforcement authority and the Chief State's Attorney or the state's attorney for the judicial district in which the child resides or in which the abuse or neglect occurred of such belief and shall provide a copy of the report.

(b) Whenever a report has been made alleging that abuse or neglect has occurred at an institution or facility that provides care for children and is subject to licensure by the state for the caring of children, and the Commissioner of Children and Families, after investigation, has reasonable cause to believe abuse or neglect has occurred, the commissioner shall forthwith notify the state agency responsible for such licensure of such institution or facility and provide records, whether or not created by the department, concerning such investigation.

(c) If, after the investigation is completed, the commissioner determines that a parent or guardian inflicting abuse or neglecting a child is in need of treatment for substance abuse, the commissioner shall refer such person to appropriate treatment services.



## **Section 6: Social Work related statutes in Elder Care/Disability Services**

### ***Mandated Reporting Statute, abuse/neglect of persons in long term care***

**Sec. 17b-407. (Formerly Sec. 17a-412). Report of suspected abuse, neglect, exploitation or abandonment. Penalty for failure to report. Confidentiality. Immunity and protection from retaliation. Notice to complainant. Registry.** (a) Any physician or surgeon licensed under the provisions of chapter 370, any resident physician or intern in any hospital in this state, whether or not so licensed, and any registered nurse, licensed practical nurse, medical examiner, dentist, optometrist, chiropractor, podiatrist, **social worker**, clergyman, police officer, pharmacist, physical therapist, long-term care facility administrator, nurse's aide or orderly in a long-term care facility, any person paid for caring for a patient in a long-term care facility, any staff person employed by a long-term care facility and any person who is a sexual assault counselor or a battered women's counselor as defined in section 52-146k **who has reasonable cause to suspect or believe** that a resident in a long-term care facility has been abused, neglected, exploited or abandoned, or is in a condition that is the result of such abuse, neglect, exploitation or abandonment, shall, not later than seventy-two hours after such suspicion or belief arose, report such information or cause a report to be made in any reasonable manner to the Commissioner of Social Services pursuant to chapter 319dd. Any person required to report under the provision of this section who fails to make such report within the prescribed time period shall be fined not more than five hundred dollars, except that, if such person intentionally fails to make such report within the prescribed time period, such person shall be guilty of a class C misdemeanor for the first offense and a class A misdemeanor for any subsequent offense.

(b) Such report shall contain the name and address of the long-term care facility, the name of the involved resident, information regarding the nature and extent of the abuse, neglect, exploitation or abandonment and any other information which the reporter believes might be helpful in an investigation of the case and for the protection of the resident.

(c) Any other person having reasonable cause to believe that a resident in a long-term care facility is being, or has been, abused, neglected, exploited or abandoned, or any person who wishes to file any other complaint regarding a long-term care facility, shall report such information in accordance with subsection (b) of this section in any reasonable manner to the Commissioner of Social Services who shall inform the resident of the services of the Office of the Long-Term Care Ombudsman.

(d) Such report or complaint shall not be deemed a public record, and shall not be subject to the provisions of section 1-210. Information derived from such reports or complaints for which reasonable grounds are determined to exist after investigation as provided for in section 17b-408, including the identity of the long-term care facility, the number of complaints received, the number of complaints substantiated and the types of complaints, may be disclosed by the Commissioner of Social Services, except that in no case shall the name of the resident or the complainant be revealed, unless such person specifically requests such disclosure or unless a judicial proceeding results from such report or complaint.

(e) Any person who makes a report or complaint pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability on account of such report or complaint or testimony, except for liability for perjury, unless such person acted in bad faith or with malicious purpose.

(f) Any person who is discharged or in any manner discriminated or retaliated against for making, in good faith, a report or complaint pursuant to this section shall be entitled to all remedies available under law including, but not limited to, remedies available under sections 19a-532 and 31-51m, as applicable.

(g) The person filing a report or complaint pursuant to the provisions of this section shall be notified of the findings of any investigation conducted by the Commissioner of Social Services, upon request.

(h) The Commissioner of Social Services shall maintain a registry of the reports received, the investigations made, the findings and the actions recommended and taken.

### ***Mandatory Reporting, Abuse of Elderly Person:***

Sec. 17b-450. (Formerly Sec. 17a-430). Definitions. For purposes of sections 17b-450 to 17b-461, inclusive:

(1) The term "elderly person" means any resident of Connecticut who is sixty years of age or older.

(2) An elderly person shall be deemed to be "in need of protective services" if such person is unable to perform or obtain services which are necessary to maintain physical and mental health.

(3) The term "services which are necessary to maintain physical and mental health"

includes, but is not limited to, the provision of medical care for physical and mental health needs, the relocation of an elderly person to a facility or institution able to offer such care, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from maltreatment the result of which includes, but is not limited to, malnutrition, deprivation of necessities or physical punishment, and transportation necessary to secure any of the above stated needs, except that this term shall not include taking such person into custody without consent except as provided in sections 17b-450 to 17b-461, inclusive.

(4) The term "protective services" means services provided by the state or other governmental or private organizations or individuals which are necessary to prevent abuse, neglect, exploitation or abandonment. Abuse includes, but is not limited to, the wilful infliction of physical pain, injury or mental anguish, or the wilful deprivation by a caretaker of services which are necessary to maintain physical and mental health. Neglect refers to an elderly person who is either living alone and not able to provide for himself or herself the services which are necessary to maintain physical and mental health or is not receiving such necessary services from the responsible caretaker. Exploitation refers to the act or process of taking advantage of an elderly person by another person or caretaker whether for monetary, personal or other benefit, gain or profit. Abandonment refers to the desertion or wilful forsaking of an elderly person by a caretaker or the foregoing of duties or the withdrawal or neglect of duties and obligations owed an elderly person by a caretaker or other person.

(5) The term "caretaker" means a person who has the responsibility for the care of an elderly person as a result of family relationship or who has assumed the responsibility for the care of the elderly voluntarily, by contract or by order of a court of competent jurisdiction.

Report of suspected abuse, neglect, exploitation, or abandonment or need for protective services. Penalty for failure to report. Immunity and protection from retaliation.

(a) Any physician or surgeon licensed under the provisions of chapter 370, any resident physician or intern in any hospital in this state, whether or not so licensed, any registered nurse, any nursing home administrator, nurse's aide or orderly in a nursing home facility, any person paid for caring for a patient in a nursing home facility, any staff person employed by a nursing home facility, any patients' advocate and any licensed practical nurse, medical examiner, dentist, optometrist, chiropractor, podiatrist, **social worker**, clergyman, police officer, pharmacist, psychologist or physical therapist, **who has reasonable cause to suspect or believe that any elderly person has been abused, neglected, exploited or abandoned, or is in a condition which is the result of such abuse, neglect, exploitation or abandonment, or is in need of protective services,** shall, not later than seventy-two hours after such suspicion or belief arose, report such information or cause a report to be made in any reasonable manner to the

Commissioner of Social Services or to the person or persons designated by the commissioner to receive such reports. Any person required to report under the provisions of this section who fails to make such report within the prescribed time period shall be fined not more than five hundred dollars, except that, if such person intentionally fails to make such report within the prescribed time period, such person shall be guilty of a class C misdemeanor for the first offense and a class A misdemeanor for any subsequent offense.

(b) Such report shall contain the name and address of the involved elderly person, information regarding the nature and extent of the abuse, neglect, exploitation or abandonment, and any other information which the reporter believes might be helpful in an investigation of the case and the protection of such elderly person.

(c) Any other person having reasonable cause to suspect or believe that an elderly person is being, or has been, abused, neglected, exploited or abandoned, or who is in need of protective services may report such information in any reasonable manner to the commissioner or the commissioner's designee.

(d) Any person who makes any report pursuant to sections 17b-450 to 17b-461, inclusive, or who testifies in any administrative or judicial proceeding arising from such report shall be immune from any civil or criminal liability on account of such report or testimony, except for liability for perjury, unless such person acted in bad faith or with malicious purpose.

(e) Any person who is discharged or in any manner discriminated or retaliated against for making, in good faith, a report pursuant to this section shall be entitled to all remedies available under law including, but not limited to, remedies available under sections 19a-532 and 31-51m, as applicable.

(f) For the purposes of sections 17b-450 to 17b-461, inclusive, the treatment of any elderly person by a Christian Science practitioner, in lieu of treatment by a licensed practitioner of the healing arts, or the refusal of treatment by an elderly person for religious reasons shall not of itself constitute grounds for the implementation of protective services.

### ***Mandated Reporting Abuse of persons with Cognitive Disabilities***

Sec. 46a-11b. Reports of suspected abuse or neglect required of certain persons. Report by others. Immunity. Fine. Treatment by Christian Science practitioner. (a) Any physician or surgeon licensed under the provisions of chapter 370, any resident physician or intern in any hospital in this state, whether or not so licensed, any registered nurse, any person paid for caring for persons in any facility and any licensed practical nurse, medical examiner, dental hygienist, dentist, occupational therapist,

optometrist, chiropractor, psychologist, podiatrist, **social worker**, school teacher, school principal, school guidance counselor, school paraprofessional, mental health professional, physician assistant, licensed or certified substance abuse counselor, licensed marital and family therapist, speech and language pathologist, clergyman, police officer, pharmacist, physical therapist, licensed professional counselor or sexual assault counselor or battered women's counselor, as defined in section 52-146k, **who has reasonable cause to suspect or believe that any person with mental retardation has been abused or neglected** shall, as soon as practicable but not later than seventy-two hours after such person has reasonable cause to suspect or believe that a person with mental retardation has been abused or neglected, report such information or cause a report to be made in any reasonable manner to the director or persons the director designates to receive such reports. Such initial report shall be followed up by a written report not later than five calendar days after the initial report was made. Any person required to report under this subsection who fails to make such report shall be fined not more than five hundred dollars.

(b) Such report shall contain the name and address of the allegedly abused or neglected person, a statement from the person making the report indicating his belief that such person is mentally retarded, information supporting the supposition that such person is substantially unable to protect himself from abuse or neglect, information regarding the nature and extent of the abuse or neglect and any other information which the person making such report believes might be helpful in an investigation of the case and the protection of such person with mental retardation.

(c) Each facility, as defined in section 46a-11a, shall inform residents of their rights and the staff of their responsibility to report abuse or neglect and shall establish appropriate policies and procedures to facilitate such reporting.

(d) Any other person having reasonable cause to believe that a person with mental retardation is being or has been abused or neglected may report such information, in any reasonable manner, to the director or to his designee.

(e) Any person who makes any report pursuant to sections 46a-11a to 46a-11g, inclusive, or who testifies in any administrative or judicial proceeding arising from such report shall be immune from any civil or criminal liability on account of such report or testimony, except for liability for perjury, unless such person acted in bad faith or with malicious purpose. Any person who obstructs, hinders or endangers any person reporting or investigating abuse or neglect or providing protective services or who makes a report in bad faith or with malicious purpose and who is not subject to any other penalty shall be fined not more than five hundred dollars. No resident or employee of a facility, as defined in section 46a-11a, shall be subject to reprisal or discharge because of his actions in reporting pursuant to sections 46a-11a to 46a-11g, inclusive.

(f) For purposes of said sections, the treatment of any person with mental retardation by a Christian Science practitioner, in lieu of treatment by a licensed practitioner of the healing arts, shall not of itself constitute grounds for the implementation of protective services.

## **Section 7: Social Work related statutes in mental health settings:**

### ***Involuntary Commitment***

**Sec. 17a-503. (Formerly Sec. 17-183a). Detention by police officer prior to commitment. Issuance of emergency certificates by psychologist and certain clinical social workers** and advanced practice registered nurses. (a) Any police officer who has reasonable cause to believe that a person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, and in need of immediate care and treatment, may take such person into custody and take or cause such person to be taken to a general hospital for emergency examination under this section. The officer shall execute a written request for emergency examination detailing the circumstances under which the person was taken into custody, and such request shall be left with the facility. The person shall be examined within twenty-four hours and shall not be held for more than seventy-two hours unless committed under section 17a-502.

(b) Upon application by any person to the court of probate having jurisdiction in accordance with section 17a-497, alleging that any respondent has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, and in need of immediate care and treatment in a hospital for psychiatric disabilities, such court may issue a warrant for the apprehension and bringing before it of such respondent and examine such respondent. If the court determines that there is probable cause to believe that such person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, the court shall order that such respondent be taken to a general hospital for examination. The person shall be examined within twenty-four hours and shall not be held for more than seventy-two hours unless committed under section 17a-502.

(d) Any **clinical social worker licensed** under chapter 383b or advanced practice registered nurse licensed under chapter 378 who (1) has **received a minimum of eight**

hours of specialized training in the conduct of direct evaluations under this subsection as a member of any mobile crisis team, jail diversion program or assertive case management program operated by or under contract with the Department of Mental Health and Addiction Services, and (2) based upon the direct evaluation of a person, has reasonable cause to believe that such person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, and in need of immediate care and treatment, may issue an emergency certificate in writing that authorizes and directs that such person be taken to a general hospital for purposes of a medical examination. The person shall be examined within twenty-four hours and shall not be held for more than seventy-two hours unless committed under section 17a-502. The Commissioner of Mental Health and Addiction Services shall collect and maintain statistical and demographic information pertaining to emergency certificates issued under this subsection.

## **Section 8: Social Work statutes related to Adolescent services:**

### ***Outpatient treatment of Adolescents without parental consent***

**Sec. 19a-14c. Provision of outpatient mental health treatment to minors without parental consent.** (a) For the purposes of this section, "outpatient mental health treatment" means the treatment of mental disorders, emotional problems or maladjustments with the object of (1) removing, modifying or retarding existing symptoms; (2) improving disturbed patterns of behavior; and (3) promoting positive personality growth and development. Treatment shall not include prescribing or otherwise dispensing any medication which is a legend drug as defined in section 20-571.

(b) A psychiatrist licensed pursuant to chapter 370, a psychologist licensed pursuant to chapter 383, an **independent social worker certified** pursuant to chapter 383b or a marital and family therapist licensed pursuant to chapter 383a may provide outpatient mental health treatment to a minor without the consent or notification of a parent or guardian at the request of the minor if (1) requiring the consent or notification of a parent or guardian would cause the minor to reject such treatment; (2) the provision of such treatment is clinically indicated; (3) the failure to provide such treatment would be seriously detrimental to the minor's well-being; (4) the minor has knowingly and

voluntarily sought such treatment; and (5) in the opinion of the provider of treatment, the minor is mature enough to participate in treatment productively. The provider of such treatment shall document the reasons for any determination made to treat a minor without the consent or notification of a parent or guardian and shall include such documentation in the minor's clinical record, along with a written statement signed by the minor stating that (A) he is voluntarily seeking such treatment; (B) he has discussed with the provider the possibility of involving his parent or guardian in the decision to pursue such treatment; (C) he has determined it is not in his best interest to involve his parent or guardian in such decision; and (D) he has been given adequate opportunity to ask the provider questions about the course of his treatment.

(c) After the sixth session of outpatient mental health treatment provided to a minor pursuant to this section, the provider of such treatment shall notify the minor that the consent, notification or involvement of a parent or guardian is required to continue treatment, unless such a requirement would be seriously detrimental to the minor's well-being. If the provider determines such a requirement would be seriously detrimental to the minor's well-being, he shall document such determination in the minor's clinical record, review such determination every sixth session thereafter and document each such review. If the provider determines such a requirement would no longer be seriously detrimental to the minor's well-being, he shall require the consent, notification or involvement of a parent or guardian as a condition of continuing treatment. No provider shall notify a parent or guardian of treatment provided pursuant to this section or disclose any information concerning such treatment to a parent or guardian without the consent of the minor.

(d) A parent or guardian who is not informed of the provision of outpatient mental health treatment for his minor child pursuant to this section shall not be liable for the costs of the treatment provided.

### ***Abortion Statute:***

**Sec. 19a-600. Definitions.** For the purposes of sections 19a-601 and 19a-602:

(1) "Counselor" means: (A) A psychiatrist, (B) a psychologist licensed under chapter 383, (C) clinical social worker licensed under chapter 383b, (D) a marital and family therapist licensed under chapter 383a, (E) an ordained member of the clergy, (F) a physician assistant licensed under section 20-12b, (G) a nurse-midwife licensed under chapter 377, (H) a certified guidance counselor, (I) a registered professional nurse licensed under chapter 378, or (J) a practical nurse licensed under chapter 378.

(2) "Minor" means a person who is less than sixteen years of age.



**Sec. 19a-601. Information and counseling for minors required. Medical emergency exception.** (a) Prior to the performance of an abortion upon a minor, a physician or counselor shall provide pregnancy information and counseling in accordance with this section in a manner and language that will be understood by the minor. The physician or counselor shall:

(1) Explain that the information being given to the minor is being given objectively and is not intended to coerce, persuade or induce the minor to choose to have an abortion or to carry the pregnancy to term;

(2) Explain that the minor may withdraw a decision to have an abortion at any time before the abortion is performed or may reconsider a decision not to have an abortion at any time within the time period during which an abortion may legally be performed;

(3) Explain to the minor the alternative choices available for managing the pregnancy, including: (A) Carrying the pregnancy to term and keeping the child, (B) carrying the pregnancy to term and placing the child for adoption, placing the child with a relative or obtaining voluntary foster care for the child, and (C) having an abortion, and explain that public and private agencies are available to assist the minor with whichever alternative she chooses and that a list of these agencies and the services available from each will be provided if the minor requests;

(4) Explain that public and private agencies are available to provide birth control information and that a list of these agencies and the services available from each will be provided if the minor requests;

(5) Discuss the possibility of involving the minor's parents, guardian or other adult family members in the minor's decision-making concerning the pregnancy and whether the minor believes that involvement would be in the minor's best interests; and

(6) Provide adequate opportunity for the minor to ask any questions concerning the pregnancy, abortion, child care and adoption, and provide information the minor seeks or, if the person cannot provide the information, indicate where the minor can receive the information.

(b) After the person provides the information and counseling to a minor as required by this section, such person shall have the minor sign and date a form stating that:

(1) The minor has received information on alternatives to abortion and that there are agencies that will provide assistance and that a list of these agencies and the services available from each will be provided if the minor requests;

(2) The minor has received an explanation that the minor may withdraw an abortion decision or reconsider a decision to carry a pregnancy to term;

(3) The alternatives available for managing the pregnancy have been explained to the minor;

(4) The minor has received an explanation about agencies available to provide birth control information and that a list of these agencies and the services available from each will be provided if the minor requests;

(5) The minor has discussed with the person providing the information and counseling the possibility of involving the minor's parents, guardian or other adult family members in the minor's decision-making about the pregnancy;

(6) If applicable, the minor has determined that not involving the minor's parents, guardian or other adult family members is in the minor's best interests; and

(7) The minor has been given an adequate opportunity to ask questions.

(c) The person providing the information and counseling shall also sign and date the form and shall include such person's business address and business telephone number. The person shall keep a copy for such minor's medical record and shall give the form to the minor or, if the minor requests and if such person is not the attending physician, transmit the form to the minor's attending physician. Such medical record shall be maintained as otherwise provided by law.

(d) The provision of pregnancy information and counseling by a physician or counselor which is evidenced in writing containing the information and statements provided in this section and which is signed by the minor shall be presumed to be evidence of compliance with the requirements of this section.

(e) The requirements of this section shall not apply when, in the best medical judgment of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy or the health, safety or well-being of the minor as to require an immediate abortion. A physician who does not comply with the requirements of this section by reason of this exception shall state in the medical record of the abortion the medical indications on which his judgment was based.

## **Section 9: Statutory Rape Laws**

**The following section defines statutory rape laws in Connecticut which are relevant to social workers in two ways. First, note the special relationship components of the law which make sexual contact between some social workers and clients sexual assault, regardless of circumstances and consent. Second, sexual activity between a teen (13,14,15 years old) and a person at least two years older is by definition, a crime. Social workers need to be knowledgeable about these distinctions to guide youth and to understand their obligations in relationship to reporting.**

### ***Connecticut Statute:***

**Sec. 53a-65. Definitions.** (1) "Actor" means a person accused of sexual assault.

(2) "Sexual intercourse" means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Its meaning is limited to persons not married to each other. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body.

(3) "Sexual contact" means any contact with the intimate parts of a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person.

(4) "Mentally defective" means that a person suffers from a mental disease or defect which renders such person incapable of appraising the nature of such person's conduct.

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling such person's conduct owing to the influence of a drug or intoxicating substance administered to such person without such person's consent, or owing to any other act committed upon such person without such person's consent.

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(7) "Use of force" means: (A) Use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim.

(8) "Intimate parts" means the genital area or any substance emitted therefrom, groin, anus or any substance emitted therefrom, inner thighs, buttocks or breasts.

(9) **"Psychotherapist"** means a physician, psychologist, nurse, substance abuse counselor, social worker, clergyman, marital and family therapist, mental health service provider, hypnotist or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy.

(10) "Psychotherapy" means the professional treatment, assessment or counseling of a mental or emotional illness, symptom or condition.

(11) "Emotionally dependent" means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the patient or former patient is unable to withhold consent to sexual contact by or sexual intercourse with the psychotherapist.

(12) **"Therapeutic deception"** means a representation by a psychotherapist that sexual contact by or sexual intercourse with the psychotherapist is consistent with or part of the patient's treatment.

(13) "School employee" means a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or a private elementary or secondary school or working in a public or private elementary or secondary school.

**Sec. 53a-70. Sexual assault in the first degree: Class B or A felony.** (a) A person is guilty of sexual assault in the first degree when such person (1) compels another person to engage in sexual intercourse by the use of force against such other person or a third person, or by the threat of use of force against such other person or against a third person which reasonably causes such person to fear physical injury to such person or a third person, or (2) engages in sexual intercourse with another person and such other person is under thirteen years of age and the actor is more than two years older than such person, or (3) commits sexual assault in the second degree as provided in section 53a-71 and in the commission of such offense is aided by two or more other persons actually present, or (4) engages in sexual intercourse with another person and such other person is mentally incapacitated to the extent that such other person is unable to consent to such sexual intercourse.

(b) (1) Except as provided in subdivision (2) of this subsection, sexual assault in the first degree is a class B felony for which two years of the sentence imposed may not be suspended or reduced by the court or, if the victim of the offense is under ten years of age, for which ten years of the sentence imposed may not be suspended or reduced by the court.

(2) Sexual assault in the first degree is a class A felony if the offense is a violation of

subdivision (1) of subsection (a) of this section and the victim of the offense is under sixteen years of age or the offense is a violation of subdivision (2) of subsection (a) of this section. Any person found guilty under said subdivision (1) or (2) shall be sentenced to a term of imprisonment of which ten years of the sentence imposed may not be suspended or reduced by the court if the victim is under ten years of age or of which five years of the sentence imposed may not be suspended or reduced by the court if the victim is under sixteen years of age.

(3) Any person found guilty under this section shall be sentenced to a term of imprisonment and a period of special parole pursuant to subsection (b) of section 53a-28 which together constitute a sentence of at least ten years.

**Sec. 53a-71. Sexual assault in the second degree: Class C or B felony.** (a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is **thirteen years of age or older but under sixteen years of age** and the actor is **more than two years older than such person**; or (2) such other person is mentally defective to the extent that such other person is unable to consent to such sexual intercourse; or (3) such other person is physically helpless; or (4) such other person is less than eighteen years old and the actor is such person's guardian or otherwise responsible for the general supervision of such person's welfare; or (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (6) **the actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of therapeutic deception**; or (7) the actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional; or (8) **the actor is a school employee and such other person is a student enrolled in a school in which the actor works** or a school under the jurisdiction of the local or regional board of education which employs the actor; or (9) the actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (10) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age.

(b) Sexual assault in the second degree is a class C felony or, if the victim of the offense is under sixteen years of age, a class B felony, and any person found guilty

under this section shall be sentenced to a term of imprisonment of which nine months of the sentence imposed may not be suspended or reduced by the court.

### ***Analysis of Connecticut Attorney General Opinion on Reporting underage sexual activity as child abuse:***

DCF and numerous professional groups requested a legal opinion from the Attorney General regarding the conflict between the mandatory reporting law changes that seem to require the reporting of all cases of sexual involvement legally defined as statutory rape. Prior to the changes in the law, DCF's mandate was limited to investigating complaints against parents, guardians or institutions. The new language opens up the scope of reporting to include all abuse or neglect, regardless of the relationship of the perpetrator to the child. The former Chief State's Attorney believed that all cases that meet the criteria for statutory rape are child abuse and must be reported. This opinion has no legal force at this point.

The prevailing standard of care in working with adolescents has been to report all cases in which the minor is under 12 years old or younger, and those cases where the adult is over 21, as well as those cases in which the facts demonstrate that the minor is functionally limited from being able to consent, is being coerced, or otherwise abused.

The Attorney General has issues his opinion that the prevailing standard of care is a reasonable way to interpret the statute. It fits with other laws granting minors the right to receive std treatment, contraceptive care, pregnancy testing, etc. Most experts agree that mandated reporters who follow the standard detailed above will protect adolescent rights, encourage adolescents to seek help, and be reasonably safe from being investigated by a prosecutor for failing to report in the discretionary cases. It is always within the rights of each prosecutor to decide what cases to pursue, so there is no absolute guarantee that this standard won't be tested.

Until there is definitive language from the legal system, there will be risk to following this practice standard, but the risk from mandatory reporting of all cases is not to be underestimated. The United States Supreme Court has indicated that confidentiality in psychotherapy is a public good of transcendent importance. It may take a test case in Connecticut to ensure that youth are granted the same privacy rights as adults.

The risks of attempting to make a legislative change on this issue are significant. It is not clear that the majority of legislators would uphold the right of the provider to have discretion in these cases of technical statutory rape. Raising the issue may result in legislation that limits professional discretion rather than protects it. Alternatively, there has been legislation introduced in past years to raise the age

difference in statutory rape from 2 to 3 years. This would reduce the high school consensual relationship problems in the current law and make it more likely to target exploited or coerced teens. It may be that this change would be attached to likely efforts to write new laws regarding on-line solicitations of underage children for sexual purposes.

## Section 10: Conservator Statute, 2007 Changes

### ***Selected Provisions and Definitions in the Statute:***

Under Public Act 07-116, effective 10/1/07,

**Section 16(f)(2)** of P.A. 07-116 provides that the court may appoint a conservator where it finds by clear and convincing evidence that: the individual is incapable of caring for him/herself; and it does not appear that the individual is being adequately cared for without a conservator; and appointment of a conservator is the least restrictive available intervention

In any matter before a court of probate in which the capacity of a party to the action is at issue, **the court may order an examination** of the allegedly incapable party by a physician or psychiatrist or, where appropriate, a psychologist ... except that a conserved **person may refuse** to undergo an examination ordered by the court under this section.

**"incapable of caring for one's self"** means: that a person has a mental, emotional or physical condition that results in such person being unable to receive and evaluate information or make or communicate decisions to such an extent that the person is unable, even with appropriate assistance, to meet essential requirements for personal needs.

**"incapable of managing his or her affairs"** means: that a person has a mental, emotional or physical condition that results in such person being unable to receive and evaluate information or make or communicate decisions to such an extent that the person is unable, even with appropriate assistance, to perform the functions inherent in managing his or her affairs, and the person has property that will be wasted or dissipated unless adequate property management is provided, or that funds are needed

for the support, care or welfare of the person or those entitled to be supported by the person, and that the person is unable to take the necessary steps to obtain or provide funds needed for the support, care or welfare of the person or those entitled to be supported by the person.

**"Involuntary representation"** means the appointment of a conservator of the person or a conservator of the estate, or both, after a finding by the Court of Probate that the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself.

**"Respondent"** means an adult person for whom an application for involuntary representation has been filed or an adult person who has requested voluntary representation.

**"Voluntary representation"** means the appointment of a conservator of the person or a conservator of the estate, or both, upon request of the respondent, without a finding that the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself.

**"Conserved person"** means a person for whom involuntary representation is granted.

**"Personal needs"** means the needs of a person including, but not limited to, the need for food, clothing, shelter, health care and safety.

**"Property management"** means actions to (1) obtain, administer, manage, protect and dispose of real and personal property, intangible property, business property, benefits and income, and (2) deal with financial affairs.

**"Least restrictive means of intervention"** means intervention for a conserved person that is sufficient to provide, within the resources available to the conserved person either from the conserved person's own estate or from private or public assistance, for a conserved person's personal needs or property management while affording the conserved person **the greatest amount of independence and self-determination.**

Sec. 12. Section 45a-645

(a) Any person who has attained at least eighteen years of age, and who is of sound mind, **may designate in writing a person or persons whom he or she desires to be appointed as conservator** of his or her person or estate or both, if he or she is thereafter found to be incapable of managing his or her affairs or incapable of caring for himself or herself.

(b) The designation shall be executed, witnessed and revoked in the same manner as provided for wills ... except that any person who is so designated as a conservator shall not qualify as a witness.



Sec. 13. Section 45a-648

- (a) An application for involuntary representation may be filed by any person alleging that a respondent is incapable of managing his or her affairs or incapable of caring for himself or herself and stating the reasons for the alleged incapability. The application shall be filed in the court of probate in the district in which the respondent resides, is domiciled or is located at the time of the filing of the application.

***Statutorily required language to inform clients of legal rights***

**Information provided to persons subject to possible appointment of a conservator:**

Social workers frequently are involved in filing applications for a conservator and as advocates for those who are subject to such an application. As part of the new law effective October, 2007, all subjects of involuntary conservator applications must be provided adequate notice of the process and the implications of having a conservator appointed. The notice shall also include a statement in boldface type of a minimum size of twelve points in substantially the following form:

**POSSIBLE CONSEQUENCES OF THE APPOINTMENT OF A CONSERVATOR  
FOR YOU**

This court has received an application to appoint a conservator for you. A conservator is a court-appointed legal guardian who may be assigned important decision-making authority over your affairs. If the application is granted and a conservator is appointed for you, you will lose some of your rights.

A permanent conservator may only be appointed for you after a court hearing. You have the right to attend the hearing on the application for appointment of a permanent conservator. If you are not able to access the court where the hearing will be held, you may request that the hearing be moved to a convenient location, even to your place of residence.

You should have an attorney represent you at the hearing on the application. If you are unable to obtain an attorney to represent you at the hearing, the court will appoint an attorney for you. If you are unable to pay for representation by an attorney, the court will pay attorney fees as permitted by the court's rules. Even if you qualify for payment of an attorney on your behalf, you may choose an attorney if the attorney will accept the attorney fees permitted by the court's rules.

If, after a hearing on the application, the court decides that you lack the ability to care for yourself, pay your bills or otherwise manage your affairs, the court may review any

alternative plans you have to get assistance to handle your own affairs that do not require appointment of a conservator. If the court decides that there are no adequate alternatives to the appointment of a conservator, the court may appoint a conservator and assign the conservator responsibility for some or all of the duties listed below. While the purpose of a conservator is to help you, you should be aware that the appointment of a conservator limits your rights. Among the areas that may be affected are:

- Accessing and budgeting your money
- Deciding where you live
- Making medical decisions for you
- Paying your bills
- Managing your real and personal property

You may participate in the selection of your conservator. If you have already designated a conservator or if you inform the court of your choice for a conservator, the court must honor your request unless the court decides that the person designated by you is not appropriate.

The conservator appointed for you may be a lawyer, a public official or someone whom you did not know before the appointment. The conservator will be required to make regular reports to the court about you. The conservator may charge you a fee, under the supervision of the court, for being your conservator."

### **Right to an Attorney**

Sec. 15. (NEW) (*Effective October 1, 2007*) (a) A respondent, as defined in section 45a-644 of the general statutes, as amended by this act, or a conserved person, as defined in section 45a-644 of the general statutes, as amended by this act, who is subject to proceedings subsequent to the appointment of a conservator pursuant to an application for involuntary representation shall have the **right to be represented by an attorney** of the respondent's or conserved person's choosing at the expense of the respondent or conserved person or, if the respondent or conserved person is indigent, within the payment guidelines of the Court of Probate.

(b) If the Court of Probate finds the respondent or conserved person is indigent or otherwise **unable to pay for an attorney, the court shall appoint an attorney** for the respondent or conserved person unless the respondent or conserved person refuses to be represented by an attorney and the court finds that the respondent or conserved person understands the nature of the refusal. The court shall appoint an attorney from a panel of attorneys admitted to practice in this state provided by the Probate Court

Administrator in accordance with regulations issued under section 45a-77 of the general statutes.

(c) An attorney appointed pursuant to this section shall represent the respondent or conserved person in proceedings under sections 45a-644 to section 45a-663, inclusive, of the general statutes, as amended by this act, and shall consult with the conserved person regarding bringing an appeal to the Superior Court under section 45a-186 of the general statutes, as amended by this act. Upon the request of the conserved person, the attorney for the conserved person shall assist in the filing and commencing of an appeal to the Superior Court. An attorney's assistance in filing such an appeal shall not obligate the attorney to appear in or prosecute the appeal. A conservator may not deny the conserved person access to the person's resources needed for an appeal.

(d) Nothing in this section shall impair, limit or diminish the right of a respondent or conserved person to replace the attorney for such respondent or conserved person with a different attorney whom such respondent or conserved person chooses in accordance with this section. Fees of an attorney chosen by the respondent or conserved person shall be approved by the Court of Probate or, if an appeal is taken, by the Superior Court.

(g) An attorney for the respondent or conserved person, on presentation of proof of authority, shall have access to all information pertinent to proceedings under title 45a of the general statutes, including immediate access to medical records available to the respondent's or conserved person's treating physician.

## **Section 11: Statutes Related to Family Law**

### ***Noncustodial parents: Rights to copies of records:***

**Social workers frequently are asked for copies of records by non-custodial parents. The following statute allows for such parents to receive copies of all medical records except where otherwise ordered by a judge. Also, a family court judge has the authority to order treatment or evaluations for any member of the family.**

**46b-56 (g) A parent not granted custody of a minor child shall not be denied the right of access to the academic, medical, hospital or other health records of such minor child, unless otherwise ordered by the court for good cause shown.**

(h) Notwithstanding the provisions of subsections (b) and (c) of this section, when a motion for modification of custody or visitation is pending before the court or has been decided by the court and the investigation ordered by the court pursuant to section 46b-6 recommends psychiatric or psychological therapy for a child, and such therapy would, in the court's opinion, be in the best interests of the child and aid the child's response to a modification, the **court may order such therapy** and reserve judgment on the motion for modification.

(i) As part of a decision concerning custody or visitation, the **court may order either parent or both of the parents and any child of such parents to participate in counseling and drug or alcohol screening**, provided such participation is in the best interests of the child.

## **Section 12: Insurance Issues:**

### ***Husky Plan Requirements***

**Sec. 17b-296. Provision for clinicians in managed care plans. Provision by managed care organizations of services under HUSKY Plan.** (a) Each managed care plan shall include **sufficient numbers of appropriately trained and certified** clinicians of pediatric care, including primary, medical subspecialty and surgical specialty physicians, as well as providers of necessary related services such as dental services, mental health services, **social work services**, developmental evaluation services, occupational therapy services, physical therapy services, speech therapy and language services, school-linked clinic services and other public health services to assure enrollees the option of obtaining benefits through such providers.

(b) Each managed care organization that on or after October 1, 2001, enters into a contract with the department to provide comprehensive services under the HUSKY Plan, Part A or the HUSKY Plan, Part B, or both, shall have primary responsibility for ensuring that its behavioral health and dental subcontractors adhere to the contract between the department and the managed care organization, including the provision of **timely payments to providers** and interest payments in accordance with subdivision (15) of section 38a-816. The managed care organization shall submit to the department a claims aging inventory report including all data on all services paid by subcontractors in accordance with the terms of the contract with the department.

## ***Mental Health Coverage, Individual Policies written in Connecticut***

**Sec. 38a-488a. Mandatory coverage for the diagnosis and treatment of mental or nervous conditions.**

(a) **Each individual health insurance policy ... shall provide benefits for the diagnosis and treatment of mental or nervous conditions.** For the purposes of this section, "mental or nervous conditions" means mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders". "Mental or nervous conditions" does not include (1) mental retardation, (2) learning disorders, (3) motor skills disorders, (4) communication disorders, (5) caffeine-related disorders, (6) relational problems, and (7) additional conditions that may be a focus of clinical attention, that are not otherwise defined as mental disorders in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders".

(b) No such policy shall establish any terms, conditions or benefits that place a greater financial burden on an insured for access to diagnosis or treatment of mental or nervous conditions than for diagnosis or treatment of medical, surgical or other physical health conditions.

(d) **In the case of benefits payable for the services of a licensed physician or psychologist, such benefits shall be payable for the same services when such services are rendered by:**

(1) **A clinical social worker who is licensed** under the provisions of chapter 383b and who has passed the clinical examination of the American Association of State Social Work Boards and has completed at least two thousand hours of post-master's social work experience in a nonprofit agency qualifying as a tax-exempt organization under Section 501(c);

## ***Mandatory Coverage for Home Health Care, Medical Social Work Services***

**Sec. 38a-493. Mandatory coverage for home health care** (a) Every individual **health insurance policy ... shall provide coverage providing reimbursement for home health care to residents in this state.**

(d) Home health care shall consist of, but shall not be limited to, the following:

(5) **Medical social services**, as hereinafter **defined**, provided to or for the benefit of a covered person diagnosed by a physician as terminally ill with a prognosis of six months or less to live. Medical social services are defined to mean services rendered, under the direction of a physician by a **qualified social worker holding a master's**

**degree from an accredited school of social work**, including but not limited to (A) assessment of the social, psychological and family problems related to or arising out of such covered person's illness and treatment; (B) appropriate action and utilization of community resources to assist in resolving such problems; (C) participation in the development of the overall plan of treatment for such covered person.

### ***Mental Health Parity Statute, Group Policies written in Connecticut:***

#### **Sec. 38a-514. Mandatory coverage for the diagnosis and treatment of mental or nervous conditions.**

(a) Except as provided in subsection (j) of this section, **each group health insurance policy, ... shall provide benefits for the diagnosis and treatment of mental or nervous conditions.** For the purposes of this section, "mental or nervous conditions" means mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders". "Mental or nervous conditions" does not include (1) mental retardation, (2) learning disorders, (3) motor skills disorders, (4) communication disorders, (5) caffeine-related disorders, (6) relational problems, and (7) additional conditions that may be a focus of clinical attention, that are not otherwise defined as mental disorders in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders".

#### **Sec. 38a-523. Group hospital or medical insurance coverage for comprehensive rehabilitation services.**

(1) "**Comprehensive rehabilitation services**" shall consist of the following when provided in a comprehensive rehabilitation facility pursuant to a plan of care approved in writing by a physician licensed in accordance with the provisions of chapter 370 and reviewed by such physician at least every thirty days to determine that continuation of such services are medically necessary for the rehabilitation of the patient: (A) Physician services, physical and occupational therapy, nursing care, psychological and audiological services and speech therapy provided by health care professionals who are licensed by the appropriate state licensing authority to perform such services; (B) **social services by a social worker holding a master's degree from an accredited school of social work;**

# Section 13: Business Related Statutes related to Social Work

## ***Professional Service Corporations:***

**Sec. 33-182a. Definitions** (1) "Professional service" means any type of service to the public that requires that members of a profession rendering such service obtain a license or other legal authorization as a condition precedent to the rendition thereof, limited to the professional services rendered by dentists, natureopaths, chiropractors, physicians and surgeons, physician assistants, doctors of dentistry, physical therapists, occupational therapists, podiatrists, optometrists, nurses, nurse-midwives, veterinarians, pharmacists, architects, professional engineers, or jointly by architects and professional engineers, landscape architects, real estate brokers, insurance producers, certified public accountants and public accountants, land surveyors, psychologists, attorneys-at-law, licensed marital and family therapists, licensed professional counselors and licensed clinical social workers.

(2) "Professional corporation" means (A) a corporation which is organized under this chapter for the sole and specific purpose of rendering professional service and which has as its shareholders only individuals who themselves are licensed or otherwise legally authorized to render the same professional service as the corporation, (B) a corporation which is organized under this chapter for the sole and specific purpose of rendering professional services rendered by members of two or more of the following professions: Psychology, marital and family therapy, social work, nursing, professional counseling and psychiatry and that has as its shareholders only individuals who themselves are licensed or otherwise legally authorized to render one of the professional services for which the corporation was specifically incorporated, (C) a corporation which is organized under this chapter for the sole and specific purpose of rendering professional services by physicians specializing in ophthalmology and optometrists and that has as its shareholders only individuals who themselves are licensed or otherwise legally authorized to render one of the professional services for which the corporation was specifically incorporated, (D) a corporation which is organized under this chapter for the sole and specific purpose of rendering professional services by (i) physicians, and (ii) physician assistants or advanced practice registered nurses, or both, and that has as its shareholders only individuals who themselves are licensed or otherwise legally authorized to render one of the professional services for which the corporation was specifically incorporated, or (E) a corporation which is organized under this chapter for the sole and specific purpose of rendering professional services by physicians and chiropractors and that has as its shareholders only

individuals who themselves are licensed or otherwise legally authorized to render one of the professional services for which the corporation was specifically incorporated.

**Sec. 33-182c. Organization.** (a) Any person or group of persons licensed or otherwise legally authorized to render the same professional services may organize and become a shareholder or shareholders of a professional corporation for profit under the provisions of chapter 601, for the sole and specific purpose of rendering the same professional service.

(b) Any group of persons, each member of which is licensed or otherwise legally authorized to render any of the professional services specified in subparagraph (B), (C), (D) or (E) of subdivision (2) of section 33-182a, may organize and become shareholders of a professional corporation for profit under the provisions of chapter 601, for the sole and specific purpose of rendering two or more of the professional services specified in said subparagraph (B), (C), (D) or (E), respectively.

(c) Persons licensed to render the same professional services in another jurisdiction shall not be shareholders, directors or officers of a professional corporation if such persons (1) unlawfully practice their profession in this state, or (2) direct or control any person licensed to practice such profession in this state concerning the delivery of professional services or the exercise of professional judgment.

## ***Limited Liability Company***

### **Sec. 34-100. Connecticut Limited Liability Company Act.**

**Sec. 34-101. Definitions** (23) "Professional service" means any type of service to the public that requires that members of a profession rendering such service obtain a license or other legal authorization as a condition precedent to the rendition thereof, limited to the professional services rendered by dentists, natureopaths, chiropractors, physicians and surgeons, doctors of dentistry, physical therapists, occupational therapists, podiatrists, optometrists, nurses, nurse-midwives, veterinarians, pharmacists, architects, professional engineers, or jointly by architects and professional engineers, landscape architects, real estate brokers, insurance producers, certified public accountants and public accountants, land surveyors, psychologists, attorneys-at-law, licensed marital and family therapists, licensed professional counselors, licensed or certified alcohol and drug counselors and licensed clinical social workers.

**Sec. 34-119. Restrictions on purposes and powers of limited liability companies.** (a) A limited liability company may be formed under sections 34-100 to 34-242, inclusive, for the transaction of any business or the promotion of any purpose which may be lawfully



carried on by a limited liability company except that of a state bank and trust company, savings bank, industrial bank or building and loan association.

(b) Except as otherwise provided in this subsection, a limited liability company may be formed to render professional services provided: (1) Each member of the limited liability company must be licensed or otherwise authorized by law in this state or any other jurisdiction to render such professional services; (2) the limited liability company will render only one specific type of professional services and services ancillary to them and may not engage in any business other than the rendering of professional services for which it was formed to render and services ancillary to them; and (3) the limited liability company may render its professional services in this state only through its members, managers, employees and agents who are licensed or otherwise legally authorized to render such professional services within this state. A limited liability company that will render professional services by licensed or certified alcohol and drug counselors may only be formed pursuant to subdivision (2) of subsection (c) of this section.

(c) A limited liability company may be formed to render professional services rendered by members of two or more of the following professions: (1) Psychology, marital and family therapy, social work, nursing and psychiatry; (2) medicine and surgery, occupational therapy, social work and alcohol and drug counseling; and (3) medicine and surgery and chiropractic; provided (A) each member of the limited liability company must be licensed or otherwise authorized by law in this state or any other jurisdiction to render any of the types of professional services specified in subdivision (1), (2) or (3) of this subsection, (B) the limited liability company will render only the types of professional services specified in subdivision (1), (2) or (3) of this subsection and services ancillary to them and may not engage in any business other than the rendering of professional services for which it was formed to render and services ancillary to them, and (C) the limited liability company may render its professional services in this state only through its members, managers, employees and agents who are licensed or otherwise legally authorized to render any of the types of professional services specified in subdivision (1), (2) or (3) of this subsection within this state.

**Sec. 34-120. Formation.** One or more organizers may form a limited liability company by signing and filing articles of organization with the Secretary of the State. The organizer or organizers need not be members of the limited liability company at the time of formation or after formation has occurred. The organizer or organizers shall prepare a writing to be held with the records of the limited liability company, setting forth: (1) The name and residence address of each person who has become an initial member of the limited liability company; and (2) if the articles of organization provide that the management of the limited liability company is vested in a manager or managers, the name and residence address of each initial manager. The limited liability company shall maintain, pursuant to subsection (a) of section 34-144, a record of the

members and any managers. In addition to the articles of organization, the organizer or organizers shall file with the Secretary of the State a writing containing the name and respective business and residence addresses of a manager or a member of the limited liability company, except that, if good cause is shown, the Secretary of the State may accept a business address in lieu of business and residence addresses of such manager or member. For purposes of this section, a showing of good cause shall include, but not be limited to, a showing that public disclosure of the residence address of the manager or member of the limited liability company may expose the personal security of such manager or member to significant risk.

**Sec. 34-121. Articles of organization.** The articles of organization of a limited liability company formed under sections 34-100 to 34-242, inclusive, shall set forth: (1) A name for the limited liability company that satisfies the requirements of section 34-102; (2) if management of the limited liability company is vested in a manager or managers, a statement to that effect; (3) the nature of the business to be transacted or the purposes to be promoted or carried out, except that it shall be sufficient to state, either alone or with other business or purposes, that the purpose of the limited liability company is to engage in any lawful act or activity for which limited liability companies may be formed under sections 34-100 to 34-242, inclusive, and by such statement all lawful acts and activities shall be within the purposes of the limited liability company, except for express limitations, if any; (4) the principal office address of the limited liability company; (5) an appointment of a statutory agent for service of process as required by section 34-104; and (6) any other matter the organizer or organizers determine to include.

**Sec. 34-124. Powers of limited liability company.** (a) A limited liability company shall have all powers specially granted to it by law, all powers enumerated in this section and all powers elsewhere granted in sections 34-100 to 34-242, inclusive, without setting forth any such powers in its articles of organization.

(b) A limited liability company shall have power to and may sue and be sued and make and use a common seal and alter the same at pleasure.

(c) Except to the extent otherwise provided in, and subject to the limitations contained in, its articles of organization or in any law affecting it, a limited liability company shall have power to and may: (1) Take property of any description or any interest therein, by gift, devise or bequest; (2) make donations for the public welfare or for charitable, scientific or educational purposes; and (3) invest its funds not currently needed in its business.

(d) Except to the extent otherwise provided in, and subject to the limitations contained in its articles of organization or in any law affecting it, a limited liability company shall have power to and may, in carrying out the purposes stated in its articles of organization: (1) Acquire, by purchase or otherwise hold, sell, convey and exercise

any and all rights of ownership or interest in or to any real or personal property whatsoever, including, without limitation, shares, securities and any other interest in or obligation of other corporations or associations, individuals or governmental units; (2) borrow money, issue promissory notes, bonds or other evidence of indebtedness and secure the same by mortgage, pledge or other form of security on any or all of its real or personal property or an interest therein; (3) make contracts, including contracts of guaranty or suretyship or other similar financial arrangements and give security therefor; (4) enter into any arrangement with others for the sharing of profits and losses or for any union of interest with respect to any transaction, operation or venture which the limited liability company has power to conduct by itself even if such arrangement involves sharing or delegation of control of such transaction, operation or venture to others; (5) carry on business in any place where such business is carried on; and (6) exercise all legal powers necessary or convenient to effect any or all of the purposes stated in its articles of organization, whether or not such powers are set forth in its articles of organization.

## **Section 14: State Administrative Regulations: for Social Work Services**

### ***Social work services in Home Health Care Agencies***

#### **19-13-D66. Definitions**

As used in Sections 19-13-D66 to 19-13-D79 inclusive:

- (a) **"Social work assistant"** means a person who holds a **baccalaureate degree in social work with at least one (1) year of social work experience; or a baccalaureate degree in a field related to social work with at least two (2) years of social work experience;**
- (b) **"Social worker"** means a graduate of a **master's degree program in social work** accredited by the Council on Social Work Education;
- (f) An **agency supervisor of social work** services shall be a graduate of a **master's degree program in social work** accredited by the Council on Social Work Education who has a minimum of **three (3) years' clinical experience in social work.**

- (c) Social Work Services:
- (1) An agency shall have **written policies** governing the delivery of social work services.
  - (2) **All social work services shall be provided by or under the supervision of a qualified social worker.**
  - (3) Functions of the social worker include the following which shall be documented in the patient's clinical record:
    - (A) Comprehensive evaluation of psychosocial status as related to the patient's illness and environment;
    - (B) Participation in development of the total patient care plan;
    - (C) Participation in case conferences with the health care team;
    - (D) Identification of patient and family needs for other home health services and referral for same when appropriate;
    - (E) Referral of patient or family to appropriate community resources.
  - (4) A qualified social work supervisor shall be employed directly by the agency or as a contractor, except when social work's meet supervisory requirements. In such event, the agency shall provide peer consultation for social work staff. When the direct service social work staff is five (5) full-time or full-time equivalent persons, the agency must provide a full-time supervisor. The number of staff assigned to a supervisor shall not exceed fifteen (15) full-time or full-time equivalent staff.
  - (5) Social work assistants who function at all times under the supervision of a qualified social worker may be employed to carry out the social work activities and assignments. The agency shall employ at least one (1) qualified social worker for every six (6) social work assistants or less.
    - (E) The **hospice interdisciplinary team** shall be composed of individuals who have clinical experience and education appropriate to the needs of the terminally ill and their families. The team shall include:
      - (i) The medical director, or physician designee;
      - (ii) A registered nurse, licensed pursuant to Chapter 378 of the Connecticut General Statutes;
      - (iii) A consulting pharmacist, licensed pursuant to Chapter 400j of the Connecticut General Statutes;
      - (iv) **and one or more of the following**, based on the needs of the patient:
        - I. **A social worker, licensed** pursuant to Chapter 383b of the Connecticut General Statutes;
        - II. A bereavement counselor;
        - III. A spiritual counselor;
        - IV. A volunteer coordinator;
        - V. A trained volunteer who is assigned a role in the

- patient's plan of care;
  - VI. A physical therapist, occupational therapist or speech-language pathologist.
- (N) **Social work services shall be provided by qualified social workers, licensed** pursuant to Chapter 383b of the Connecticut General Statutes, employed by the hospice program. The social worker's functions shall include, but not be limited to:
- (i) Comprehensive evaluation of the psychosocial status of the patient family as it relates to the patient's illness and environment;
  - (ii) Counseling of the patient family and primary caregivers;
  - (iii) Participation in development of the plan of care;
  - (iv) Participation in ongoing case management with the hospice interdisciplinary team.
- (O) Counseling shall include bereavement, spiritual, dietary, and any other counseling services that may be needed by the patient family while enrolled in a hospice program.
- (i) Counseling shall be provided only by qualified personnel employed by the hospice;
  - (ii) Bereavement services shall include:
    - I. Ongoing assessment of the family and primary caregiver's needs, including the presence of any risk factors associated with the patient's impending death or death and the ability of the family or primary caregiver to cope with the loss;
    - II. A plan of care for bereavement services which identifies the individualized services to be provided;
    - III. The availability of pre-death grief counseling for the patient family and primary caregiver;
    - IV. Ongoing, regular, planned contact with the family and primary caregiver, offered for at least one year after the death of the patient, based on the plan of care;

### ***Social work services in Dialysis Units***

#### **19-13-D55a. Licensure of out-patient dialysis units - standards for in-hospital dialysis units**

- (3) **Social Worker.**

- (A) The administrator/director shall appoint a qualified social worker.
- (B) A qualified social worker shall be **licensed** pursuant to section 20-195m of the general statutes of Connecticut.
- (C) Social work staff shall be employed in sufficient numbers to meet the needs of the patients.
- (D) The social work staff shall assess and monitor each patient's adjustment to the social and emotional aspects of the patient's illness and treatment, provide casework or groupwork for patients and families as needed, participate in team reviews of patients' progress and make recommendations regarding treatment based on the patient's current psychosocial needs, provide direction for financial assistance, identify community resources and assist patients and families in utilizing them.

### ***Social work services in Chronic Disease Hospitals***

#### **19-13-D5. Long-term hospitals: Chronic disease hospital**

- (s) Social Work.
  - (12) Definitions:
    - (D) **Social Work Designee** A social work designee shall have at least an **associate's degree in social work or in a related human service field**. Any person employed as a social work designee on January 1, 1989 shall be eligible to continue in the facility of employment without restriction.
    - (E) **Qualified Social Worker** A qualified social worker shall hold at least a **bachelor's degree in social work** from a college or university which was accredited by the Council on Social Work Education at the time of his or her graduation, and have **at least one year social work experience** in a health care facility.
    - (F) **Qualified Social Work Consultant** A qualified social work consultant shall hold at least a **master's degree in social work** from a college or university which was accredited by the Council on Social Work Education at the time of his or her graduation and have **at least one year post-graduate social work experience in a health care facility**.
  - (13) Each facility shall employ social work service staff to meet the social and emotional problems and/or needs of the patients based on their medical and/or psychiatric diagnosis.

- (14) The administrator of the facility shall designate in writing a qualified social worker or social work designee as responsible for the social work service.
- (15) The social work service shall be directed by a qualified social worker or a social work designee. If the service is under the direction of a social work designee the facility shall contract for the regular consultation of a qualified social work consultant at least on a quarterly basis.
- (16) Social work service staff shall be employed in each facility sufficient to meet the needs of the patients but not less than the following ratio of hours per week to the number of licensed beds in the facility:
  - (D) One (1) to thirty (30) beds, ten (10) hours per week.
  - (E) Thirty-one (31) to sixty (60) beds, twenty (20) hours per week.
  - (F) Each additional thirty (30) beds or fraction thereof, ten (10) additional hours.
- (17) Written social work service policies and procedures shall be developed and implemented by a qualified social worker, or social work designee under the direction of a qualified social work consultant, and ratified by the governing body of the facility. Such standards shall include, but not be limited to:
  - (C) Ensuring the confidentiality of all patients' social, emotional, and medical information, in accordance with the General Statutes of Connecticut Section 19a-550 (a) (8).
  - (D) Requiring a prompt referral to an appropriate agency for patients or families in need of financial assistance and requiring that a record is maintained of each referral to such agency in the patient's medical record.
- (18) The social work service shall help each patient to adjust to the social and emotional aspects of the patient's illness, treatment, and stay in the facility. The medically related social and emotional needs of the patient and family shall be identified, a plan of care developed, and measurable goals set in accordance with the Regulations of Connecticut State Agencies Sections 19-13-D8t (o) (2) (H) and (o) (2) (I).
- (19) All staff of the facility shall receive inservice training by or under the direction of a qualified social worker or social work designee each year concerning patients' personal and property rights pursuant to Section 19a-550 of the Connecticut General Statutes.
- (20) All staff of the facility shall receive inservice training by a qualified social worker or qualified social work consultant each year in an area specific to the needs of the facility's patient population.
- (21) A qualified social worker or social work designee shall participate in planning for the discharge and transfer of each patient.
- (22) Office facilities shall be easily accessible to patients and staff or alternate arrangements shall be available. Each facility shall ensure privacy for

interviews between staff and: patients, patients' families and patients' next friend.

## ***Social work services in Recovery Centers***

### **19a-495-571. Licensure of recovery care centers and standards for in-hospital recovery care centers**

- (15) **"Qualified social work consultant"** means a person who possesses at least a **master's degree in social work** from college or university that was accredited by the Council on Social Work Education at the time of his or her graduation, and has **at least two (2) years of post graduate social work experience in a health care setting**.
  - (16) **"Qualified social worker"** means a person who possesses at least a **bachelor's degree in social work** from a college or university that was accredited by the Council of Social Work Education at the time of his or her graduation, and has **at least one (1) year of post degree social work experience in a health care setting**.
- (w) Social work. In-hospital recovery care centers
- (1) Any in-hospital recovery care center, as defined in subsection (a)(17)(A) of this section, must provide a social work services program to the patients of the unit consistent with this section.
  - (2) If the provision of social work services to the in-hospital recovery care center is coordinated through the hospital social work department, these provisions must be consistent with subsection (x) of this section and must be defined in policies and procedures of the respective hospital social work department and the in-hospital recovery care center.
- (x) Social work. Out of hospital recovery care centers
- (1) Personnel and staffing requirements
    - (A) The delivery of social work services shall be provided by a social worker who is qualified under subsection (a)(16) of this section.
    - (B) If the delivery of social work services is provided by a baccalaureate level social worker, the center shall contract for regular consultation by a social work consultant who is qualified under subsection (a)(15) of this section, on no less than a monthly basis, to review the social work service program.
    - (C) When consultation is required, the consultant shall prepare a written report to the administrator of each visit describing hours visited, policy and procedure review, medical record review, inservice education and other significant activities.
    - (D) The center shall provide or contract for sufficient hours of social work service to meet the medically related psychosocial needs of all



patients but not less than a ratio of one (1) hour per week per licensed bed.

- (2) Social work service provision
  - (A) Written policies and procedures shall be developed by a social worker who is qualified under subsection (a)(16) of this section or a social work consultant who is qualified under subsection (a)(15) of this section and ratified by the governing body, and shall include, but not necessarily be limited to:
    - (i) identifying the responsibilities and duties of personnel who will be providing social work services to the patients;
    - (ii) conducting a social work intake assessment for all patients within seventy-two (72) hours of admission;
    - (iii) referring a patient or his or her next of kin or legal representative to appropriate agencies for financial assistance, support services, counseling services, legal services, and residential services as needed if such referrals have not already been made;
    - (iv) serving as liaison between patients, families, facility staff, hospital, institution or community agency staff and caregivers and significant others as necessary; and
    - (v) ensuring the confidentiality of all patients' social, emotional and medical information.
  - (B) Social work services shall be provided to assist each patient or his or her next of kin or legal representative in adjusting to the social and emotional aspects of the patient's illness, treatment(s) and stay in the center. Services provided to the patient shall be documented in the patient's medical record.
  - (C) The social worker or social work consultant shall be responsible for reviewing the discharge or transfer of each patient.
  - (D) All staff of the center shall receive inservice training by a social worker or social work consultant at least twice a year in an area specific to the needs of the center's patient population.

### ***Social work services in Maternity Homes***

#### **19a-506-1. Licensure of maternity homes. Definitions**

- (B) Plan for consultation. The operator of a maternity home shall provide and adhere to a written plan for qualified professional consultation and referral services which shall include the following:
  - (i) Health care services under the direction of a physician licensed in the state of Connecticut with obstetrical,

gynecological, family practice or pediatric experience of at least three years.

- (ii) **Social work services provided by a social worker with a Master's Degree in social work with experience working with adolescents and children.**

- (a) Social Work Services.

- (1) A social worker shall provide direct client services including intake, assessment, individual and group counseling, and discharge planning.
- (2) Services shall include casework with the client's family and father of the baby where possible.

### ***Social work services in Child Day Care Centers and Group Homes***

#### Section 19a-79-1a. Definitions

(54) "Social service consultant" means a person who holds a baccalaureate degree in social work with at least one (1) year of social work experience under social work supervision, or a baccalaureate degree in a field that the Commissioner deems related to social work with at least two (2) years of social work experience under social work supervision.

#### Section 19a-79-4a. Staffing

- (h) A written plan for consultation services shall be developed and implemented.

## **Section 15: Loan Forgiveness for Social Workers**

U.S. Department of Education's Income Contingent Repayment (ICR) Program, a borrower may pay federally guaranteed and federally extended loans over 25 years. The repayment amount is tied to the borrower's income and after 25 years of ICR payments, the balance of the debt is forgiven.

A new program will allow public service workers to cancel their loans after ten years of service for loans taken out after October 1, 2007. A public service job is defined as: emergency management, government, military service, public safety, law enforcement, public health, public education (including early childhood education), social work in a public child or family service agency, public interest law services (including prosecution of public defense or legal advocacy in low-income communities at a nonprofit organization), public child care, public service for individuals with disabilities, public service for the elderly, public library sciences, school based library sciences, and “other school-based services” or at an organization with 501 (c)(3) Internal Revenue Service status, which would be the nonprofit sector.

## **Public Service Loan Forgiveness**

The *College Cost Reduction and Access Act of 2007* established a new public service loan forgiveness program. This program discharges any remaining debt after 10 years of full-time employment in public service. The borrower must have made 120 payments as part of the Direct Loan program in order to obtain this benefit. Only payments made on or after October 1, 2007 count toward the required 120 monthly payments. (Borrowers may consolidate into Direct Lending in order to qualify for this loan forgiveness program starting July 1, 2008.)

This contrasts with the loan forgiveness of the remaining balance after 25 years of repayment under the income-contingent and income-based repayment plans for borrowers who are not employed full time in public service jobs.

## **Eligibility**

The public service loan forgiveness program has several restrictions:

- **Term:** The forgiveness occurs after 120 monthly payments made on or after October 1, 2007 on an eligible Federal Direct Loan. Periods of deferment and forbearance are not counted toward the 120 payments. Payments made before October 1, 2007 do not count. Likewise, only payments on a Federal Direct Loan are counted.
- **What is forgiven?** The remaining interest and principal are forgiven.
- **Employment:** The borrower must be employed full-time in a public service job for each of the 120 monthly payments. Public service jobs include, among other positions, government, military service, public safety and law enforcement (police and fire), public health, public education, public early childhood education, public child care, **social work in a public child or family service agency, public services for individuals with disabilities or the elderly**, public interest legal services (including prosecutors, public defenders and legal advocacy in low-income communities), public librarians, school librarians and other school-based services, and employees of tax exempt 501(c)(3)

organizations. Full-time faculty at tribal colleges and universities, as well as faculty teaching in high-need areas, also qualify.

- **Eligible Loans:** Eligible loans include Federal Direct Stafford Loans (Subsidized and Unsubsidized), Federal Direct PLUS Loans, and Federal Direct Consolidation Loans. Borrowers in the Direct Loan program do not need to consolidate in order to qualify for loan forgiveness. Borrowers in the FFEL program will need to consolidate into Direct Loans.

### ***National Health Service Corp - Federal Program***

Additional information: [http://nhsc.bhpr.hrsa.gov/join\\_us/lrp.cfm](http://nhsc.bhpr.hrsa.gov/join_us/lrp.cfm)

Fully trained health professionals, **including clinical social workers**, who are dedicated to **working with the underserved** and have qualifying educational loans **are eligible to compete for repayment of those loans if they choose to serve in a community of greatest need**. In addition to loan repayment, these clinicians receive a competitive salary, some tax relief benefits, and a chance to have a significant impact on a community.

### ***National Institutes of Health (NIH) - Loan Forgiveness for Researchers***

Additional information and on-line application: <http://www.lrp.nih.gov/>

Program is for social workers and other professionals who are pursuing research careers in the areas of clinical, pediatric, contraception and infertility, or health disparities. Participants must possess a doctoral-level degree, devote 50% or more of their time to research funded by a non-profit organization or government entity (federal, state, or local), and have educational loan debt equal to or exceeding 20% of their institutional base salary.

## **Section 16: Miscellaneous:**

### ***Freedom of Information Act, exclusions:***

**Sec. 1-217. Nondisclosure of residential addresses of certain individuals.** (a) No public agency may disclose, under the Freedom of Information Act, the residential address of

any of the following persons:

(2) A sworn member of a municipal police department or a sworn member of the Division of State Police within the Department of Public Safety;

**(3) An employee of the Department of Correction;**

(5) An attorney-at-law who is or has been employed by the Public Defender Services Division or a **social worker who is employed by the Public Defender Services Division;**

**(8) An employee of the Department of Children and Families;**

(9) A member or employee of the Board of Pardons and Paroles;

(10) An employee of the judicial branch; or

(11) A member or employee of the Commission on Human Rights and Opportunities.

### ***Gender change application probate court***

**Sec. 19a-42b. Amendment of out-of-state or foreign birth certificate to reflect gender change. Probate court jurisdiction. Application process.** (a) In the case of a person who is a resident of this state and was born in another state or in a foreign jurisdiction, if such other state or foreign jurisdiction requires a court decree in order to amend a birth certificate to reflect a change in gender, the probate courts in this state shall have jurisdiction to issue such a decree. When a person has completed treatment for the purpose of altering his or her sexual characteristics to those of the opposite sex, such person may apply to the probate court for the district in which such person resides for a decree that such person's birth certificate be amended to reflect the change in gender. **The application to the probate court shall be accompanied by an affidavit from a physician attesting that the applicant has physically changed gender and an affidavit from a psychologist, psychiatrist or a licensed clinical social worker attesting that the applicant has socially and psychologically changed gender.** Upon issuance, such probate court decree shall be transmitted to the registration authority of such person's place of birth.

## ***Family and Medical Leave Certification***

### **Sec. 31-51kk. Family and medical leave: Definitions**

(6) "**Health care provider**" means (A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; (B) a podiatrist, dentist, psychologist, optometrist or chiropractor authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; (C) an advanced practice registered nurse, nurse practitioner, nurse midwife or **clinical social worker** authorized to practice by the state in which such person practices and performs within the scope of the authorized practice;

**Sec. 31-51mm. Family and medical leave: Certification.** (a) An employer may require that request for leave based on a serious health condition in subparagraph (C) or (D) of subdivision (2) of subsection (a) of section 31-51ll be supported by a **certification issued by the health care provider** of the eligible employee or of the son, daughter, spouse or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) Certification provided under subsection (a) of this section shall be sufficient if it states:

(1) The date on which the serious health condition commenced;

(2) The probable duration of the condition;

(3) The appropriate medical facts within the knowledge of the health care provider regarding the condition;

(4) (A) For purposes of leave under subparagraph (C) of subdivision (2) of subsection (a) of section 31-51ll, a statement that the eligible employee is needed to care for the son, daughter, spouse or parent and an estimate of the amount of time that such employee needs to care for the son, daughter, spouse or parent; and (B) for purposes of leave under subparagraph (D) of subdivision (2) of subsection (a) of section 31-51ll, a statement that the employee is unable to perform the functions of the position of the employee;

(5) In the case of certification for intermittent leave or leave on a reduced leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;

(6) In the case of certification for intermittent leave or leave on a reduced leave schedule under subparagraph (D) of subdivision (2) of subsection (a) of section 31-51ll, a statement of the medical necessity of the intermittent leave or leave on a reduced

leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and

(7) In the case of certification for intermittent leave or leave on a reduced leave schedule under subparagraph (C) of subdivision (2) of subsection (a) of section 31-511l, a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the son, daughter, parent or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

(c) (1) In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) of this section for leave under subparagraph (C) or (D) of subdivision (2) of subsection (a) of section 31-511l, the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b) of this section for such leave.

(2) A health care provider designated or approved under subdivision (1) of this subsection shall not be employed on a regular basis by the employer.

(d) (1) In any case in which the second opinion described in subsection (c) of this section differs from the opinion in the original certification provided under subsection (a) of this section, the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b) of this section.

(2) The opinion of the third health care provider concerning the information certified under subsection (b) of this section shall be considered to be final and shall be binding on the employer and the employee.

(e) The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis, provided the standards for determining what constitutes a reasonable basis for recertification may be governed by a collective bargaining agreement between such employer and a labor organization which is the collective bargaining representative of the unit of which the worker is a part if such a collective bargaining agreement is in effect. Unless otherwise required by the employee's health care provider, the employer may not require recertification more than once during a thirty-day period and, in any case, may not unreasonably require recertification. The employer shall pay for any recertification that is not covered by the employee's health insurance.

