



# CAPITOL CONSULTING LLC

## Connecticut Physical Therapy Association 2018 Legislative Summary

*Prepared by  
Michael S. Dugan  
Capitol Consulting LLC  
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The General Assembly adjourned the 2018 legislative session on May 9<sup>th</sup> at midnight. The State Senate is evenly split between Democrats and Republicans with 18-members each, so the Senate had to again learn how to share power both at the committee level and in the Senate chamber. When the Senate members could not agree, the Democrats had Lt. Gov. Nancy Wyman available to break the tie vote in favor of the Democrats. The Democrats control the 151-member State House with 80-members to the Republican 71. This slim margin in each chamber lead to difficulty in passing legislation that did not have bipartisan support.

For the second time in about eight months, Connecticut legislators approved a bipartisan \$20.86 billion state budget, this time a deficit mitigation one, which contains no tax increases and was passed before the conclusion of the Constitutionally mandated midnight deadline on May 9<sup>th</sup>. The budget restores aid for towns, reverses health care cuts for the elderly, poor and disabled, and adds some money to the special transportation fund for another year. In late April reports indicated some unanticipated tax revenues from the stock market surge would be available and that resulted in new spending and increase funding of the rain day account. Despite this surge in revenue the next fiscal year beginning on July 1, 2019 is projected to be running a \$2 billion deficit with a similar deficit in the second year of the biennium. The budget bill was immediately transmitted to the Governor. Though the Governor was not a party to the bipartisan budget discussions, he signed the bill into law.

2018 is an election year for all 187-seats in the General Assembly as well as all the Constitutional officers. With Governor Malloy announcing earlier in the year that he will not be seeking re-election, at one point there were 30-candidates vying for their party's nomination to succeed him. In addition, the majority could be up for grabs in the State House and Senate. In the Senate, a pick-up of one seat by either party will give them the majority. In the House, the Republicans have picked up 43-seats over the past four election cycles. If this trend continues the Republicans will take the majority in the House if they pick-up five more seats. This would be the first time the Republicans control the House chamber since the Reagan landslide some 34-years ago. Capitol Consulting will be sure to keep you up to date on the latest news from the various campaigns throughout the summer and fall.



During the 2018 regular session Capitol Consulting tracked 60 bills for CPTA. Find below a summary of the major bills and issues of interest.

### **Doctor of Physical Therapy Designation**

#### **SB 171      An Act Concerning Doctor of Physical Therapy Designation**

This was CPTA top proactive legislative priority for the 2018 session. This legislation permits physical therapists who have a doctorate in physical therapy from an accredited higher education institution to use the designation of “Doctorate of Physical Therapy” or D.P.T.

At a February 28<sup>th</sup> public hearing before the Public Health Committee Vic Vaughan offered testimony in support of this legislation stating, “adding the DPT as a designator for those who have completed this educational program will comply with our national standard, as described by the American Physical Therapy Association, and will most accurately represent the current educational and license qualifications to the public.”

Capitol Consulting successfully lobbied the Public Health Committee to gain the unanimous support of the of the membership. This bill was later merged into the omnibus public health statutes bill where it gained final passage into law. See HB 5163 for more details.

### **Opioid Working Group**

#### **SB 483      An Act Concerning the Prevention and Treatment of Opioid Dependency and Opioid Overdoses in the State**

SB 483 was one of many bills introduced this session to address the opioid crisis. This act combines the various ideas into one proposal to prevent and treat opioid drug abuse. The act:

1. requires the Chief Court Administrator to study the feasibility of establishing an opioid intervention court;
2. prohibits prescribing practitioners from prescribing, dispensing, or administering schedule II to IV controlled substances to themselves or immediate family members, except in emergencies;
3. authorizes prescribing practitioners and pharmacists authorized to prescribe naloxone to enter into an agreement to distribute opioid antagonists to certain entities (for example, community health organizations and law enforcement agencies);
4. requires the Alcohol and Drug Policy Council (ADPC) to convene a working group to evaluate methods of combating the opioid epidemic;
5. requires any hospital or emergency medical services personnel that treats a patient for an opioid overdose to report such overdose to DPH; and



6. extends a Department of Corrections pilot treatment program, expands its scope if federal funds are available, and requires a new report on the program's results by July 1, 2019.

Capitol Consulting on behalf of CPTA sought to amend this legislation to require that ADPC's Opioid Working Group consider whether using physical therapy can reduce the need for opioid drugs to mitigate a patient's chronic pain. Capitol Consulting worked closely with the Public Health Committee leadership to draft and eventually approve our amendment. In addition to physical therapy, the Opioid Working Group is charged with evaluating various other methods to combat the opioid epidemic in the state. By January 1, 2019 the Working Group must report their findings to the chairpersons of the ADPC. The chairpersons of ADPC must report their findings and recommendations to the Public Health Committee.

At the writing of this report the Opioid Working Group has not convened their first meeting. Capitol Consulting is working with the ADPC and the Department of Mental Health and Addiction Services to determine whether a representative of CPTA could serve on this Working Group to discuss physical therapy methods to combat chronic pain. Capitol Consulting will closely monitor the activities of this Working Group throughout the summer and fall.

**Public Act – 18-166**

**Effective Date – July 1, 2018, except upon passage for the Alcohol and Drug Policy Council working group and DOC pilot treatment program provisions.**

**Governor's Signature – June 14, 2018**

### Prosthetic Devices

#### **SB 376 An Act Concerning Health Insurance Coverage for Prosthetic Devices**

This act requires certain health insurance policies to cover prosthetic devices, and medically necessary repairs and replacements to them, subject to specified conditions. It defines a "prosthetic device" as an artificial device to replace all or part of an arm or leg, including one with a microprocessor if the patient's health care provider determines it is medically necessary. This act excludes a device that is designed exclusively for athletic purposes.

The bill applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including those provided under an HMO plan. Due to the federal Employee Retirement Income Security Act, state insurance benefit mandates do not apply to self-insured benefit plans.

At a March 8<sup>th</sup> public hearing before the Insurance Committee, Vic Vaughan on behalf of CPTA offered testimony in support of this legislation. Mr. Vaughan stated, "a patient already



having lost a limb is now required to carry the greatest part of the financial burden in order to gain back their life. I can think of fewer things that are more unfair and inappropriate.” Mr. Vaughan went on to state, “the recovery of function to the highest possible level fits fully under the definition of rehabilitation and habilitation which are essential benefits under the Affordable Care Act.”

This bill was overwhelmingly approved by the Insurance and Appropriations Committees as well as the Senate and House.

**Public Act – 18-69**

**Effective Date – January 1, 2019**

**Governor’s Signature – May 25, 2018**

### **Other Legislation of Interest that Passed**

#### **SB 479      An Act Concerning Immunity from Civil or Criminal Liability for Persons Providing Medical Assistance or Intervention in a Child Abuse or Neglect Case**

This act provides immunity from civil and criminal liability to any person, institution, or agency that, in good faith, provides professional medical intervention or assistance in any proceeding involving child abuse or neglect. The act's immunity applies to liability that might otherwise arise from or is related to actions such as:

1. causing a photograph, x-ray, or physical custody examination to be made;
2. causing a child to be taken into emergency protective custody;
3. disclosing a medical record or other information pertinent to the proceeding; or
4. performing a medically relevant test.

The act also eliminates current immunity from civil or criminal liability for any person, institution, or agency that, in good faith, does not report suspected child abuse or neglect or alleged sexual assault of a student to Department of Children and Families or law enforcement as required or permitted by law. The act retains immunity for a person, institution, or agency that, in good faith, makes such a report and applies the immunity to civil or criminal liability that might otherwise arise from, or is related to, making the report. Currently, this immunity applies to civil or criminal liability that might otherwise be incurred or imposed.

Under the act, the immunity from civil or criminal liability for providing medical intervention or assistance or making a good faith report does not extend to medical malpractice that results in personal injury or death.

**Public Act – 18-57**

**Effective Date – July 1, 2018, and applicable to any civil action pending or filed on or after that date.**

**Governor’s Signature – June 6, 2018**



**HB 5163     An Act Concerning the Department of Public Health’s Recommendations Regarding Various Revisions to the Public Health Statutes**

This act makes various substantive, minor, and technical changes to Department of Public Health (DPH)-related statutes and programs. Of interest to CPTA are the following sections:

**Section 11 – Corrective Action Plans**

Under existing law, a licensed health care institution must submit a correction plan to DPH if the department, after an inspection, issues a notice that the institution was out of compliance with applicable laws or regulations. The act requires the institution to submit the plan within 10 business days after receiving the notice of noncompliance, rather than 10 calendar days as under current law.

*Effective Date: October 1, 2018*

**Sections 34-39 — Advanced Practice Registered Nurses (APRN) and Advance Directives**

These sections add APRNs into the laws on living wills and other advance directives, authorizing them to perform certain functions that currently are performed only by a physician.

*Effective Date: October 1, 2018*

**Section 513 — Physician Assistant (PA) Orders**

This section specifies that a PA does not have the authority to order an APRN to administer a controlled substance.

*Effective Date: Upon Passage*

**Section 526 – Doctors of Physical Therapy**

The inclusion of this section into HB 5163 was Capitol Consulting’s top legislative priority for the 2018 session for CPTA. Following the introduction of SB 171 Capitol Consulting worked with the leadership of the Public Health Committee to have this section included in the public health statutes bill. This section ensures that physical therapist with a doctorate in physical therapy from an accredited higher education institution can use the designation of “Doctorate of Physical Therapy” or D.P.T.

*Effective Date: July 1, 2018*

**Section 528 – 530 – Podiatric Ankle Surgery**

The section of the act:

1. modifies the process and qualifications for podiatrists seeking to independently engage in ankle surgery;
2. modifies the qualifications for podiatrists seeking to engage in supervised ankle surgery;
3. specifies that a podiatrist's privileges and scope of practice for foot surgery are not impacted by his or her privileges and scope of practice for ankle surgery; and
4. makes related minor, technical, and conforming changes, such as updating the names of national certification boards.



The act allows a licensed podiatrist to independently engage in ankle surgery if they provide documentation to DPH of having met specified qualifications. It requires DPH to implement a mechanism for a podiatrist to provide the required documentation as part of the initial licensure application and credentialing boards and the public to access the names of podiatrists who submitted the documentation. The act provides that any podiatrist who holds a standard ankle surgery permit on October 1, 2018 is deemed to have met the bill's documentation requirements.

*Effective Date: October 1, 2018, except a conforming change is effective July 1, 2018.*

**Section 538** — Supervision of Physician Assistants

Removes the cap on the number of PAs that a physician may supervise.

*Effective Date: July 1, 2018*

**Public Act – 18-168**

**Effective Date – See Dates Listed Above**

**Governor's Signature – June 13, 2018**

**Legislation of Interest that Failed**

**SB 300      An Act Concerning Collaborative Arrangements Between Physician Assistants and Physicians**

This legislation was introduced in the Public Health Committee following a working group on this topic last year. This legislation sought to allow physician assistants to collaborate with physicians. Following a March 16<sup>th</sup> hearing the Public Health Committee took no further action on this legislation. See HB 5163 for more information on physician assistants.

**SB 306      An Act Concerning the Approval of Podiatrists to Perform Standard Ankle Surgical Procedures**

This bill was introduced at the request of the Connecticut Podiatric Medical Association into the Public Health Committee. Under current law, a licensed podiatrist cannot independently engage in ankle surgery unless they meet specified qualifications and receives a separate permit from DPH.

In addition, current law requires the DPH commissioner to appoint a four-member advisory committee, consisting of two podiatrists and two orthopedic surgeons, to assist in evaluating permit applicants. SB 306 disbands the advisory committee and instead requires the state Board of Examiners in Podiatry to assist the commissioner in evaluating permit applicants.

Furthermore, the bill correspondingly requires the commissioner to seek the advice of the podiatry board, rather than the advisory committee, in identifying the number and types of procedures required to qualify a podiatrist for such a permit.



This bill was approved by the Public Health Committee on a 25 to 2 vote and was later merged into HB 5163. See HB 5163 for more information on this issue.

**SB 378      An Act Concerning Reimbursements Under Certain High Deductible Health Plans**

This bill was introduced in a bipartisan effort by Senators Martin Looney (D-New Haven), Len Fasano (R-North Haven), Terry Gerratana (D-New Britain) and Heather Somers (R-Groton) to require that health carriers that issue certain high deductible plans directly reimburse participating providers for the cost of the covered benefits.

At a March 6<sup>th</sup> public hearing, Sen. Looney stated, “physicians are trained to provide medical care; they are not supposed to be bill collectors and administrators for insurers.” Sen. Looney goes on to state, “the intent [of the legislation] is that the insurer offering the high deductible plans should allow providers to directly bill the insurer for covered services that are subject to the deductible and the insurer should bill and collect the amount from the policy holder.”

This bill was opposed by the health insurance carriers and the Department of Insurance who indicated this could lead to higher premiums for the insured. Despite high level bipartisan support this legislation was not acted upon by the Insurance Committee. This bill will likely be reintroduced during the 2019 legislative session.

**SB 401      An Act Concerning the Use of Automatic External Defibrillators and Cardiopulmonary Resuscitation Certification of Lifeguards**

Under this bill, a health care provider who operates an automatic external defibrillator (AED) in the ordinary course of his or her employment or practice to render emergency assistance is not civilly liable for any personal injuries that result from the AED's malfunctioning. The bill applies to any health care provider licensed or certified by DPH and only if the AED's malfunctioning constitutes ordinary negligence.

Under certain conditions, existing law provides immunity from civil liability to anyone who operates an AED not in the course of their employment and a person or entity who provides or maintains such a device.

Despite the unanimous approval of Public Health Committee this bill failed to be acted upon by the Senate before the adjournment of the 2018 session on May 9<sup>th</sup>.

**SB 402      An Act Concerning Truth in Advertising by Medical Doctors and Doctors of Osteopathic Medicine**

This bill sought to permit physicians to advertise or otherwise convey to the public that they are board certified only if certain conditions are met.

The advertisement must state the full name of the certifying board. In addition, the certifying board must be:



1. a member of the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA) or
2. another board that requires (a) successful completion of a postgraduate training program meeting certain criteria and (b) passage of an examination.

Violating the bill subjects a physician to disciplinary action by DPH. Under current law, disciplinary actions available to the department includes, revoking or suspending a license, issuing a letter of reprimand, placing the violator on probation, or imposing a civil penalty of up to \$25,000.

Despite the unanimous approval of Public Health Committee this bill failed to be acted upon by the Senate before the adjournment of the 2018 session on May 9<sup>th</sup>.

#### **HB 5294      An Act Concerning Naturopaths**

This bill was introduced in the Public Health Committee following a working group study of the issue during the fall of 2017. This bill sought to amend the meaning of "naturopathy" and to establish a procedure for naturopathic physicians to administer prescription medications. Following a March 5<sup>th</sup> hearing the Public Health Committee did not take any further action on this proposal.

#### **HB 5380      An Act Concerning Clinical Peer Review Performed for Purposes of a Utilization Review**

At the request of Sen. Looney, this bill was introduced by the Insurance Committee. HB 5380 sought to require that a clinical peer who performs a clinical peer review during a utilization review be licensed in this state in the same specialty as typically manages the medical condition, procedure or treatment under review. Following a March 6<sup>th</sup> hearing the Insurance Committee took no further action on this legislation.

