

**PA13-284**

SB1067

House	10610-10630	21
Public Health	4316-4322, 4442-4445	11
Senate	3720-3728, 4292-4295, 4414-4415, 4492	16
		<b>48</b>

**H - 1180**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2013**

**VETO  
SESSION**

**VOL.56  
PART 31  
10451 - 10795**

Those voting nay 0  
Absent and not voting 4

SPEAKER SHARKEY:

The bill as amended passes in concurrence with  
the Senate. Will the Clerk please call Calendar  
number 676.

THE CLERK:

Calendar number 676 on page 32, favorable report  
of the joint standing Committee on General Law,  
substitute Senate Bill 1067, AN ACT CONCERNING THE  
PROVISION OF CERTAIN SERVICES AT MEDICAL SPAS.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Good evening, Mr. Speaker. I move the joint  
committee's favorable report and passage of the bill  
in conformance with the Senate.

SPEAKER SHARKEY:

The question is acceptance of the joint  
committee's favorable report and passage of the bill  
in concurrence with the Senate. Will you remark,  
Madam?

REP. JOHNSON (49th):

Yes, Mr. Speaker. I would like to call -- this

is a bill that will actually establish requirements for medical spas. And we have an amendment, LCO number 8417 and I ask that that be called and I be granted leave to summarize.

SPEAKER SHARKEY:

Will the Clerk please call LCO 8417 which has been previously designated Senate Amendment A.

THE CLERK:

Senate Amendment A, 8417 introduced by Representatives Johnson, Senator Gerratana, et al.

SPEAKER SHARKEY:

The Gentlewoman seeks leave of the Chamber to summarize. Is there objection? Is there objection? Seeing none, you may proceed with summarization, Madam.

REP. JOHNSON (49th):

Mr. Speaker, this amendment will make it very clear that treating -- a doctor will be required to oversee and provide the procedures that doctors provide normally. One of the things that we were very concerned about is that surgical procedures were being conducted with a -- without the observation of a doctor onsite. So I move adoption.

SPEAKER SHARKEY:

Thank you, Madam. The question before the Chamber is adoption of Senate Amendment A. Will you remark? Representative Srinivasan.

REP. SRINIVASAN (31st):

Good evening again, Mr. Speaker.

SPEAKER SHARKEY:

Good evening again, Sir.

REP. SRINIVASAN (31st):

I too rise in strong support of this amendment. We have noted that more and more people are taking advantage and being in these various medical spas for all the right reasons and therefore it behooves us that these medical spas where people go to seek all kinds of medical attention are appropriately supervised.

And as a good -- as the good Chairwoman of the Public Health Committee that what this bill does and what the amendment does is make sure that these medical spas are under the supervision of a physician. And -- and I urge my colleagues to support this amendment. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Sir. Would you care to remark further on Senate Amendment A? Representative Hovey of the

112th.

REP. HOVEY (112th):

Thank you, Mr. Speaker. Through you, a couple of questions to the proponent of the amendment.

SPEAKER SHARKEY:

Representative Johnson, please prepare yourself. You may proceed, Sir. Proceed, Madam. Sorry.

REP. HOVEY (112th):

Thank you, Mr. Speaker. Mr. Speaker, through you. It has come to my attention that many of the medical spas are actually being run by physician assistants who have a great deal of expertise in injections and all types of medical procedures but you know under that level of like surgical types of procedures and in fact there is a feeling by many of the people who are ownership -- have ownership of the medi spas that -- that this piece of legislation has been kind of run without them really knowing too much about it and being informed about the issues with regard to it.

So through you, Mr. Speaker, when it talks in line 23 about cosmetic medical procedure at a medical spa needing to be performed by a licensed physician, through you, Mr. Speaker, is this bill specifically

talking about like injections of Botox and Restylane and those types of medical procedures? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. This is talking about things that are normally done by a physician.

SPEAKER SHARKEY:

Representative Hovey.

REP. HOVEY (112th):

Thank you, Mr. Speaker. So for legislative intent I want to be sure that when we're talking about Botox, Restylane and those types of -- of injectable cosmetic -- I'm not even sure what they're really called that this bill is not going to prohibit individuals who are not licensed physicians from being able to inject those substances in -- as required by a patient so to speak. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. The intent of the bill is to make sure that things that are normally done by

a physician for -- one of the examples that was given is liposuction would be done by a physician. In other circumstances these cosmetic preparations may or may not be done by a physician depending on what the normal practice is. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Hovey.

REP. HOVEY (112th):

Thank you, Mr. Speaker. So again for legislative intent to be clear a physician usually has the expertise to do what would be considered invasive type of procedures and there is a -- a large number of procedures that would come -- I guess would not be considered invasive but that a nurse or a physician's assistant would be completely capable of doing and would be within the realm of their practice in general without a physician administering it. And we would have no intention -- this legislation has no intention eliminating the ability of our -- of nurses or physician's assistants from conducting themselves in the -- in the way that they typically would. Am I correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. I think the good Representative has it correct. As long as these things are within the scope of practice of that particular profession then this bill will not interfere in any way. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Hovey.

REP. HOVEY (112th):

Thank you, Mr. Speaker. And I thank the Gentlewoman for her answers. Mr. Speaker, I have to tell you that I have been contacted recently by several physician's assistants and practicing nursing who are very, very concerned about this specific bill. This is actually outside of the -- my realm of expertise.

But what they are telling me is that they believe that this is basically an overstepping by physicians to intervene in their -- in their practices can be fairly lucrative but are noninvasive and are nonlife threatening and they really take offense to this specific bill. So Mr. Speaker, on behalf of all those constituents who have contacted I will not be able to support this piece of legislation.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark?  
Would you care to remark further on Senate Amendment  
A? Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. A few questions through  
you to the proponent of the amendment.

SPEAKER SHARKEY:

Please proceed, Madam.

REP. SAWYER (55th):

Thank you. In looking at line 15 where it says  
such physicians shall act as the establishment's  
medical director, what type of physician -- what type  
of experience do you expect that this physician would  
have? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

I would expect that the physician would have been  
determined to be a physician within the scope of  
practice of physicians. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you. And through you. Would you expect that this particular physician would have had medical training as a dermatologist? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

That -- that's a possibility. There might be other types of physicians as well. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. In looking at line 29, 30 and 31 as it says any such procedure that is not performed by a physician shall be performed under the supervision and control of a physician. Could you please describe what is expected as control of a physician?

SPEAKER SHARKEY:

Representative Johnson.

REP. SAWYER (55th):

Through you, Mr. Speaker.

REP. JOHNSON (49th):

As in most practices when a physician hires others to perform services like for example nurses or physicians assistants in those circumstances the physician is operating by controlling those employees to do the work that is -- that is part of the practice. Through you, Mr. -- Mr. Speaker.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. Through you. Is it expected that the physician will be onsite? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Certainly the physician will be onsite the surgical procedures that he will be -- he or she will be performing. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. Through you. Would the physician -- it would be expected the physician would be onsite while someone else is performing the

procedures? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. Could you please ask the good Representative to specify which procedures she is referring?

SPEAKER SHARKEY:

Representative Sawyer, could you clarify your question.

REP. SAWYER (55th):

In lines six, seven and eight it refers to multiple cosmetic situations and in the case of liposuction in which there are -- is a medical procedure that is transdermal, it is underneath the skin. Would a physician be expected to be onsite when someone else is performing the procedure? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. The -- the bill calls for the physician to be present for the things that physicians do and otherwise supervise whether it means

that the physician would be there assisting with a nursing procedure I don't think so. I think that the physician is there for physician's service and as a general rule what goes on in doctor's is the doctor is there for providing the different things that doctors do like diagnosis and assessment and perhaps other types of procedures and the nurse is there to provide nursing services, the receptionist, receptionist services and so on. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. My concern is that when you're talking about liposuction you are talking about an instance most probably where it is expected that anesthesia would be delivered. And in the case that anesthesia would be used in this particular spa again I would ask is it the expectation that the physician would be present onsite perhaps not performing it -- the procedure but would be onsite? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. There are all different types of anesthesia. Maybe the good Representative could specify which types of anesthesia she is referring to?

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. It would be more than a topical and I would at this point ask the question referring to a general anesthesia. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. Then only a qualified nurse, anesthetist under the supervision of a doctor could provide those services. Through you, Sir.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. And just one final question. If general anesthesia were to be given would it be expected that the physician would be onsite? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. As a general rule that does -- that -- the physician is there to perform the surgery then the nurse, anesthetist is there to provide the anesthesiology. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. That wasn't perhaps an answer to the question that I was asking but I will thank the Gentlelady for her attempt at trying to answer the questions. It is my hope that in the case where there is anesthesia being used that the -- it would be an expectation that the physician would be onsite because it is a very dangerous practice. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark further on Senate Amendment A? Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. Just a couple very quick

questions to the proponent of the amendment if I could.

SPEAKER SHARKEY:

Please proceed, Sir.

REP. SAMPSON (80th):

Through you, Mr. Speaker. I'm wonder if there has been any testimony that might tell us how many spas there are in total? How many have physician, RN or APRN on staff and those that do not? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. the concern of this bill really is to make sure that there is a doctor that is providing the oversight for surgical procedures and that the standard practices that are occurring for surgical procedures in these med spas have the type of oversight that any clinic would have. So that's the purpose of the bill. The numbers were not discussed in any of the testimony that I'm aware of. As you know perhaps we have had many, many bills testified to and the numbers are not actually discussed with respect to how many med spas there are.

So through you, Mr. Speaker, the idea is patient safety. Public Health is there for patient safety.

SPEAKER SHARKEY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And I thank the Gentlelady for her answer. I think it's unfortunate that we do not know exactly how many businesses we will affect with this legislation but I'll ask a follow up. And it's that was there any testimony with regard to any complaints that are known with respect to spas that do not currently have a practitioner available? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. The idea is that we were very, very concerned that there were things that were going on in med spas that could perhaps put people at risk because they -- there -- there was not enough physician oversight.

SPEAKER SHARKEY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. Again I think that's unfortunate that we don't -- not aware of any complaints but we're going to make legislation that might change how certain businesses are currently operating in our State maybe without good reason. Another follow up, through you, Mr. Speaker.

I'm wondering if these types of spas -- I'm assuming that they would generally be required to carry some type of insurance but is insurance available to a spa even if they do not have a practitioner as mentioned in the amendment available to them? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Mr. Speaker, that's outside the scope of what this bill is about. This bill is just to make sure that there are qualified people performing the services that the med spa offers and that people have someone there to make sure that any type of injury or any medical service that is provided is provided in the -- in the correct in accordance with the standard practice. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. One final, final question that I'll follow up with although I will say that I think that it's unfortunate that we do not have these answer as I think it would go a long way to giving a good reason why we should go forward with this legislation. But my final question, through you, Mr. Speaker. Are -- has this legislation been passed in any other state to your knowledge? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

Through you, Mr. Speaker. This is actually a concern that we have people practicing medicine that's outside the scope of their practice so this puts these med spas in conformance with our State law. With respect to other states we're not really concerned at this point in time with what other states are doing because the -- the situation here is we do not want to have people practicing medicine outside of their scope.

So other states probably require in all

probability that people operate within their scope of practice and I would expect that that's what this is going to do. And that's I think how other states operate as well. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. And I thank the Gentlelady for the answers to her questions although I'm pretty sure that I went O for four for getting answers. We do not know how many spas that were -- are involved. We do not know how many of them have the practitioners mentioned and required by this amendment in their employ.

We don't know if there are any complaints about these procedures or the potential harm to any people that might be consumers. And we don't know whether or not insurance is available to these businesses although I imagine that it is. And as far as we can tell it has not been enacted in any other states. To me I think this is not the way we go about making legislation. I think that the bill itself might be very good intentioned but we should have answers to very important questions before we affect how

businesses operate in our State. And for those reasons I'm going to pass -- vote no on the amendment, Mr. Speaker. Thank you.

SPEAKER SHARKEY:

Thank you, Sir. Do you care to remark? Do you care to remark further on Senate Amendment A? If not, let me try your minds. All those in favor of Senate Amendment A please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

Those opposed, nay.

REPRESENTATIVES:

Nay.

SPEAKER SHARKEY:

The ayes have it. The amendment is adopted.  
Would you care to remark further on the bill as amended? Do you care to remark further on the bill as amended? If not, staff and guests to the well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll. Will

members please return to the Chamber immediately.

SPEAKER SHARKEY:

Have all the members voted? Have all the members voted? Will the members please check the board to make sure your vote is properly cast. If all the members have voted the machine will be locked and the Clerk will take a tally. Will the Clerk please announce the tally.

THE CLERK:

In concurrence with the Senate, substitute Senate Bill 1067 as amended by Senate A.

Total Number Voting	146
Necessary for Adoption	74
Those voting aye	117
Those voting nay	29
Absent and not voting	4

SPEAKER SHARKEY:

The bill as amended passes in concurrence with the Senate. Will the Clerk please call Calendar 607.

THE CLERK:

On page 24, Calendar 607 favorable report of the joint standing Committee on Judiciary, substitute Senate Bill 992, AN ACT CONCERNING VARIOUS REVISIONS TO THE OFFICE OF HEALTHCARE ACCESS STATUTES.

**S - 663**

**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2013**

**VOL. 56  
PART 12  
3488 – 3812**

On Page 43, Calendar 384, Substitute for Senate Bill Number 1067, AN ACT CONCERNING THE PROVISION OF CERTAIN SERVICES AT MEDICAL SPAS, Favorable Report of the Committee on PUBLIC HEALTH.

THE CHAIR:

Senator Gerratana.

SENATOR GERRATANA:

Thank you, Madam President.

Madam President, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Motion is on acceptance and passage.

Will you remark, please?

SENATOR GERRATANA:

Yes, Madam President.

Thank you.

The bill before us goes unamended and I want to explain very briefly what it does. It does set up a protocol in our statutes that defines medical spa, med spa, or medispa. And it also says in the bill a variety of things that may be or may happen with a medical spa, but more importantly, and the reason why this bill is so important, is that it links the business to medical doctor. A physician, licensed pursuant to Chapter 370, which is our Medical Practice Act. And heretofore, of course, that wasn't in our statutes. There's also an enforcement provision in the statute.

And I just want to give just a brief history of the legislation. It came out of Public Health Committee. We had a lot of discussion, both with providers with the Department of Public Health, which had some concerns. We met those concerns. Chatted with them. We put an enforcement provision in here, which is

something that they had recommended. But more importantly, it's good public policy that we take the path and start down the path of regulating these entities who are doing business in our State with no medical oversight.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

I -- I do rise to support this bill. I think it makes a lot of common sense. Medispas are often organizations that do intrusive surgery. And right now there's no requirement that a doctor be, at least contracted to oversee the services that are provided there. And so I think there's a glaring hole within the statutes. This bill fixes that.

I do have one question for the proponent, if I may.

Through you, Madam President.

THE CHAIR:

Please proceed, sir.

SENATOR WELCH:

Thank you, Madam President.

I understand that -- that there is a fiscal impact with this bill and I'm just -- would like to inquire of the proponent of the bill if that has been included in the budget that's being discussed now?

Through you, Madam President.

THE CHAIR:

Senator Gerratana.

SENATOR GERRATANA:

Through you, Madam President.

Not that I'm aware of, but I did have discussions with the department about the enforcement. They are comfortable with it.

Through you, Madam President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

Just so I understand what that means, they are comfortable with it. That -- does that mean that they expect that they could absorb the impact that might be realized from this bill with their current -- with their current staff?

Through you, Madam President.

THE CHAIR:

Senator Gerratana.

SENATOR GERRATANA:

Through you, Madam President.

Yes, that's my understanding.

THE CHAIR:

Senator Welch.

SENATOR GERRATANA:

Okay.

Thank you, Madam President.

That's all I have.

THE CHAIR:

Thank you.

Will you remark further?

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

I have a couple of questions, through you, to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR KELLY:

Thank you, Madam President.

With regards to the physician, what will that, the addition of the -- the physician or the physician's supervision, bring to the industry now that -- that doesn't already exist?

Through you.

THE CHAIR:

Senator Gerratana.

SENATOR GERRATANA:

Through you, Madam President.

As I said in the beginning, this is oversight supervision. This is to, if you will, have a medical director, a doctor, healthcare provider, who can sign, it says in the language of the bill on Line 15,

employees or contracts for the services of a physician.

So the med spa, which may not be run by medical personnel, or the procedures that may be medical in nature are done by unlicensed or not medical personnel. This would afford a level of supervision that a medical doctor can be involved with.

We have a similar arrangement, in many ways, if you look at our education statute with medical directors who come up with plans and procedures regarding how our medical practices are carried out or needs in our school system. So as I understand it, it's a formal contract. It means that a doctor will be linked to the medical spa and that the doctor, under the doctor's license, can then act, as it says in Line 17, as establishment's medical director.

Through you, Madam President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Senator Gerratana.

With regards to those medical procedures, could you give me a couple of examples of what type of procedures or examples would be there currently not being supervised with a medical doctor's supervision.

Through you, Madam President.

THE CHAIR:

Senator Gerratana.

SENATOR GERRATANA:

Through you, Madam President.

It is my understanding from the testimony that was given by the medical providers, that very often there are some practices, such as dermal abrasion, the

injection of Botox or other neurotoxins, that are done by unlicensed medical personnel.

Through you, Madam President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

And the purpose of this bill would be to bring supervision in a professional medical capacity to oversee, not necessarily with a hand's on approach being physically present, but just to supervise, making sure that best management practices are upheld in the administration of these services.

Through you, Madam President.

THE CHAIR:

Senator Gerratana.

SENATOR GERRATANA:

Through you, Madam President.

Again, on Line 15, it says contracts for the services of a physician. So my interpretation of that, Senator Kelly, would mean that if there were medical procedures and the med spa contracts with the physician, it's not just the medical directorship, but also that there would be medical personnel, appropriate medical personnel, and indeed maybe even the physician who would provide these procedures.

Through you, Madam President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Would they be required to be the person implementing or can they still utilize the staff in order to deliver those services?

Through you, Madam President.

THE CHAIR:

Senator -- Senator Gerratana.

SENATOR GERRATANA:

Thank you, Madam President.

I think that's a very good question. My interpretation would be that staff that is able to do what they can do --and if you look at the citing here, 12-407, in our statutes, we do delineate certain procedures that are done by a variety of businesses that are not licensed medical personnel, some of which may or may not be considered to be medical procedures. But clearly, my understanding is, and I know talking with physicians that they understand and know what medical procedures can be done by licensed or unlicensed personnel.

And that would be the intent of this legislation with the medical director. The supervision of such medical director, who would know, through their license and education, about who or -- may do certain procedures or who may not.

Through you, Madam President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Through you, Madam President.

And thank you, Senator Gerratana for your -- your answers to my questions.

I have no further questions at this time.

THE CHAIR:

Thank you.

Will you remark further?

Senator Witkos.

SENATOR WITKOS:

Good afternoon, Madam President.

THE CHAIR:

Good afternoon.

SENATOR WITKOS:

If I may, a few questions to the proponent of the  
bill.

THE CHAIR:

Please proceed, sir.

SENATOR WITKOS:

Thank you.

THE CHAIR:

No, excuse me, Senator Witkos. I'm going to cut you  
off because Senator Looney stood up.

SENATOR LOONEY:

Yes, by -- with --

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

With apologies to Senator Witkos and Senator  
Gerratana. If this item might be passed temporarily,  
Madam President.

There are some -- some issues regarding the foot --  
the fiscal note on the bill.

THE CHAIR:

Thank you very much.

Thank you.

Mr. Clerk.

THE CLERK:

On Page 15, Calendar 516, Substitute for House Bill  
Number 5500, AN ACT REQUIRING INSTITUTIONS OF HIGHER  
EDUCATION TO PROVIDE STUDENTS WITH UNIFORM FINANCIAL  
AID INFORMATION, Favorable Report of the Committee on  
HIGHER EDUCATION AND EMPLOYMENT ADVANCEMENT.

THE CHAIR:

Senator Bye. Good afternoon.

SENATOR BYE:

Good afternoon, Madam President.

I move acceptance of the Joint Committee's Favorable  
Report and passage of the bill.

THE CHAIR:

Motion is on acceptance and passage.

Will you remark?

SENATOR BYE:

Thank you, Madam President.

This bill has no amendment. It is as passed in  
concurrence with the House. And it's one that our  
Higher Ed. Committee is very excited about, because we  
think it provides some really important consumer  
protections for students at our higher institutions --  
higher education institutions in Connecticut.

**S - 665**

**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2013**

**VOL. 56  
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4130 - 4472**

gdm/cah/meb/gbr  
SENATE

37  
June 1, 2013

On page 33, Calendar 384, Substitute for Senate Bill Number 1067, AN ACT CONCERNING THE PROVISION OF CERTAIN SERVICES AT MEDICAL SPAS, Favorable Report of the Committee on Public Health. There are amendments.

THE CHAIR:

Good afternoon, Senator Gerratana.

SENATOR GERRATANA:

Good afternoon, Madam President. How are you this afternoon.

THE CHAIR:

Fantastic. I hope you are too.

SENATOR GERRATANA:

I am too. Thank you, Madam President.

Madam President, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Motion is on acceptance and passage.

Will you remark, please.

SENATOR GERRATANA:

Yes, please.

Madam President, the Clerk has an amendment. It is LCO Number 8417. If he will please call, and I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 8417, Senate "A" offered by Senators Gerratana,

gdm/cah/meb/gbr  
SENATE

38  
June 1, 2013

Welch, et al.

THE CHAIR:

Senator Gerratana.

SENATOR GERRATANA:

Thank you, Madam President.

Madam President, the amendment --

THE CHAIR:

Will you move the adoption, sir.

SENATOR GERRATANA:

Oh, I'm sorry. I move adoption of the amendment.

THE CHAIR:

Motion is on adoption.

Will you remark, please.

SENATOR GERRATANA:

Thank you.

The amendment before us is a strike-all amendment. After much discussion and previously having brought the bill out and realizing there were some challenges in it, I worked with, of course, Senator Welch and others who were concerned. And I think we have here a good solution. And I will explain the amendment that we have before us. It certainly reflects what we already have in statute regarding cosmetic medical procedures, and it narrowly defines what a medical spa facility is. It also links that facility to the contract or employment of a physician, and it also requires that the physician will do an initial physical assessment of each person undergoing a cosmetic medical procedure at the facility.

It incorporates the use of both APRNs and also physician assistants who may also do procedures under the supervision of a physician at these medical spas, and also

gdm/cah/meb/gbr  
SENATE

39  
June 1, 2013

goes to the advertisement of what a medical spa facility is.

I hope the Chamber will support -- will join me in supporting me in this law.

Thank you.

THE CHAIR:

Sorry. Will you remark?

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

I also rise in support of this amendment. And I think one of the most important changes to note here is that there is now no fiscal note with respect to the bill before us, which is a good thing.

And -- and also, just as an aside, I just received not too long ago a text from my daughter that -- and I'm sorry Senator -- Senator Bye is not here to hear this -- but that the U-12 Bristol Girls Soccer Travel Team beat West Hartford five to nothing. And I'm sure that's in no small part to their fantastic goalie for giving them a clean sheet.

So thank you, Madam President. And I urge -- urge adoption of the amendment.

THE CHAIR:

Will you remark?

Senator Witkos.

SENATOR WITKOS:

Thank you, Madam President.

I also rise in support of the amendment. Thanks to Senator Welch and Senator Gerratana. I was originally -- had some concerns with the original bill. This amendment really

gdm/cah/meb/gbr  
SENATE

40  
June 1, 2013

tightens things up. And I think, you know -- I have a business in my -- my district that falls within the category, Vein Clinics of America. And I'm told that -- that this goes in with their business plan -- and everybody that was involved in the negotiations and signed off, and those are the best bills that we can generate out of this building. So I -- I stand in the strong support of the amendment.

Thank you, Madam President.

THE CHAIR:

Sorry. Will you remark? Will you remark?

If not, can we take a -- let me try your minds. All in favor?

SENATORS:

Aye.

THE CHAIR:

Opposed?

Senate "A" is adopted.

Will you remark further? Will you remark further?

Senator Gerratana.

SENATOR GERRATANA:

Thank you, Madam President.

If there is no objection, I would like to move this item to our Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered.

Senator Looney.

SENATOR LOONEY:

gdm/cah/meb/gbr  
SENATE

159  
June 1, 2013

Thank you, Madam President.

Madam President, if the Clerk would list the items on the first Consent Calendar and then if we might call for a vote on that Consent Calendar.

THE CHAIR:

Thank you.

Mr. Clerk.

It's not open, I'm not opening it. I'm waiting for you to call the (inaudible).

THE CLERK:

On Page 3, Calendar 209, Senate Bill 1033.

Page 5, Calendar 355, House Bill 6023.

Page 7, Calendar 460, House Bill 6506.

On Page 11, Calendar 505, House Bill 6406.

On Page 18, Calendar 617, House Bill 5441; Calendar 620, House Bill 6683; Calendar 623, House Bill 6365.

And on Page 19, Calendar 624, House Bill 6151.

On Page 20, Calendar 635, House Bill 5926.

Page 23, Calendar 659, House Bill 5358.

On Page 26, Calendar 680, House Bill 5666.

And on Page 29, Calendar 182, Senate Bill 1000.

Page 33, Calendar 384, Senate Bill 1067.

And on Page 36, Calendar 649, House Bill 5113.

THE CHAIR:

Thank you.

gdm/cah/meb/gbr  
SENATE

160  
June 1, 2013

Mr. Clerk, will you call for a roll call vote and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.  
Senators please return to the Chamber. Immediate roll call on Consent Calendar Number 1 has been ordered in the Senate.

THE CHAIR:

If all members have voted, if all members have voted, the machine will be closed.

Mr. Clerk, will you please call a tally.

THE CLERK:

On the first Consent Calendar of the day.

Total Number Voting	35	
Necessary for Adoption	18	
Those Voting Yea	35	
Those Voting Nay	0	
Those Absent and Not Voting		1

THE CHAIR:

Consent Calendar passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if the Clerk would please call as the next item Calendar Page 10, Calendar 495, Senate Bill 840 from the Finance, Revenue and Bonding Committee.

THE CHAIR:

Good evening, Senator Fonfara.

SENATOR FONFARA:

**S - 666**

**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2013**

**VOL. 56  
PART 15  
4473 - 4802**

gdm/cah/meb/gbr  
SENATE

237  
June 1, 2013

machine will be closed and the Clerk will announce the tally.

THE CLERK:

House Bill Number 6527, as amended,

Total Number Voting	34
Necessary for Adoption	18
Those Voting Yea	34
Those Voting Nay	0
Those Absent and Not Voting	2

THE CHAIR:

The bill passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, I would move for immediate transmittal to the House of Representatives of Calendar 662, Substitute for House Bill Number 6527.

THE CHAIR:

So ordered.

SENATOR LOONEY:

And, Mr. President, would move for immediate transmittal to the House of Representatives of any other bill acted upon in the Senate today requiring additional action by the House of Representatives.

THE CHAIR:

So ordered.

SENATOR LOONEY:

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**PUBLIC  
HEALTH  
PART 13  
4018-4316**

**2013**

rays any more. It's not an x-ray department, it's an imaging department because we just don't do that, and we call them interventional radiologists because they do procedures in type which amount to a type of surgery, and what they're doing now, they will be able to do in the future. And we've asked them and consulted them on that.

REP. SRINIVASAN: Thank you. Thank you very much. Thank you, Madam Chair.

REP. JOHNSON: Thank you. Thank you so much. Thank you for waiting.

MICHAEL DARREN: You're welcome.

REP. JOHNSON: Thank you for your testimony. Let's see, moving on to Senate Bill 1067, Dr. Defelice and then Dr. Goodkind. Welcome.

PATRICK FELICE: Good morning.

REP. JOHNSON: Good morning, sir.

PATRICK FELICE: Dr. Patrick Felice from Bloomfield and I certainly want to thank you all for your endurance and hanging in there with us to hear all these testimonies. We certainly appreciate your efforts.

I'm personally having flashbacks from my surgical residence days as 1:00 o'clock approaches, so we'll move it along.

I'm here today as the President of the Connecticut Society of Plastic and Reconstructive Surgeons and in support of SB 1067.

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**PUBLIC  
HEALTH  
PART 14  
4317-4577**

**2013**

I'd also like to state that the Connecticut State Medical Society has, with our several discussions, supported my testimony that has been submitted to you.

I would also submit, we will be submitting photographs some of the things I will be describing, a couple examples of patient injuries that I will be referring to.

To quote a recent article in Philly.com, it's becoming a little bit of a wild west out there and the explosion of med spas around the country have led to a variety of injuries and even deaths in these facilities.

We're before you today with the hope of avoiding that outcome in Connecticut.

To be clear, med spas are facilities where surgical and non-surgical procedures are performed. Currently there are no licensure requirements in Connecticut and therefore there's no regulatory oversight by the Department of Health. There's no facility inspections, no infection control requirements or other patient safety and quality care guidelines now in place for us in hospitals, us meaning physicians offices.

Several states have moved to regulate these facilities with Massachusetts requiring licensure as a clinic. In fact, we would like to see these facilities licensed by the Department, that can't be true, licensed by the Department of Public Health, but because of budgetary constraints, we've suggested some requirements be established in this short term to address safety concerns while further licensure requirements are explored.

Understand that currently some med spas, in some med spas, procedures are performed without supervision of a physician and without patients being seen or evaluated by a physician. In fact, some facilities have medical directors who are retired and no longer even practicing.

The bill before you does not fully address the real concerns that currently exist'. I attached a copy of language, which we have addressed with the Department of Public Health and believe to be a step in the right direction.

The language adds more specificity to the definition of med spas, broadens the requirements of the medical director and includes an advertising provision similar to what is in place for other specialties. This is essential so patients can make informed decisions about their health care.

In my own practice, in summary, I've seen patients and I've spoken to several of our colleagues around the state that have seen patients who have treated in facilities where there was no physician oversight and they needed corrective intervention.

These patients present with the regular contours from liposuction procedures, problems associated with lidocain toxicity, from local anesthetic procedures, unnatural features from Botox and cosmetic fillers and scarring from lasers.

The DPH has documented a number of these proceedings filed against designated providers in med spas for inappropriate and illegal actions.

This body addressed concerns over patient safety in the office setting several years ago and required physicians offices that provided certain levels of anesthesia to become licensed as outpatient surgical centers.

A new type of facility, the med spa has been established since that time requiring further regulatory oversight in order to ensure the safety and well being of Connecticut's patients.

I hope you will take this issue seriously and address the safety concerns that exist today before we read about a patient that has succumbed to a treatment in the State of Connecticut. Thank you.

REP. JOHNSON: Thank you so much for your testimony. Are there any questions? Yes. Representative Srinivasan.

REP. SRINIVASAN: Thank you, Madam Chair. Good morning and thank you for your testimony.

PATRICK FELICE: Good morning.

REP. SRINIVASAN: So as we understand now, these medical spas, some of the medical spas may not even have a medical director or an M.D. at the time when patients are seen in these spas?

PATRICK FELICE: Correct. The only requirement right now is that the med spa has a medical director. Oftentimes, we see over and over again that medical director never sees the patients. They're all delegated to other staff members and they're not being seen, and our feeling is that these patients should be at least initially evaluated by a physician and then the duties can be delegated if so desires.

But we have instances of med spas that really kind of took advantage of the loophole that we have from this ambulatory surgery center requirement, and that is moderate sedation. In other words, they feel under local anesthesia, they could do anything.

We're seeing a lot of problems around the state and they're increase in frequency with lidocain toxicity because they don't understand that doing liposuction you infiltrate an area with Novocain, lidocain, you numb the area and then you suction out fat.

Well, that could be considered a local procedure, but not they're extending to do suctioning more than one area, so their support of that is saying, well, we give them time in between. We let them go have some coffee, they sit around. Some of these patients are in their office for eight hours, and what they're failing to realize is that lidocain just keeps increasing in your blood system. It doesn't peak until 12 hours, so even though they're giving them this time in between procedures, it's very dangerous because they're still administering more and more and more.

So there's a lack of understanding of that and several of our emergency rooms have seen patients from these facilities that have presented with lidocain toxicity.

REP. SRINIVASAN: Thank you. And through you, Madam Chair, ideally you would prefer that these medical spas be licensed is what I gather from your testimony, but given the fact that we have fiscal constraints --

PATRICK FELICE: Sure.

REP. SRINIVASAN: You are suggesting some stop gap arrangements between now and the final licensure of these med spas?

PATRICK FELICE: Right. I feel that, you know, the wording we've come up to at least right now define them better. Define what a medical director's role is and certainly get in there that the medical director who is receiving a fee from these facilities to be medical director prominently display what their specialty is. Is it urology? Is it radiology? Is it, you know, plastic surgery, dermatology, whatever it is. In all advertising that should be displayed. So that's our wording that we'd like to get started with.

As far as licensure, we can begin a task force with the Department of Public Health. We're certainly willing to work on that to proceed toward licensure. I believe as Massachusetts has done and several other states have done, by the way. I have data from Maryland, California, they're all moving toward recognizing that these facilities are truly medical facilities and there should be a licensure requirement at some point, and that we'd be happy to work on that task force to help you with that.

REP. SRINIVASAN: And my final question. You did mention a few states. Do we have states here that already have the licensure in process, established in our country?

PATRICK FELICE: Yes, California, Maryland, Florida has some provisions. They're not there yet but they're in the process, and Massachusetts. Our neighbor, Massachusetts has already proceeded with licensure of med spas.

REP. SRINIVASAN: Thank you. Thank you for your testimony. Thank you, Madam Chair.

REP. JOHNSON: Thank you. Any additional questions? Thank you so much. Dr. Goodkind. Gordon Willard on House Bill 6591, followed by Dr. Chris Gargonelli and then Nancy Parker. Welcome. Please state your name for the record.

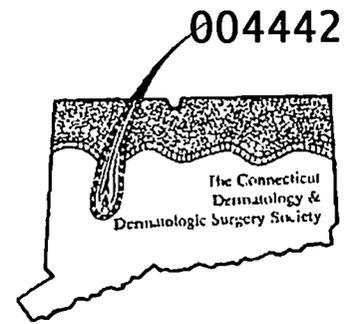
GORDON WILLARD: Hi. My name is Gordon Willard. I'm the Executive Director at the Connecticut Humane Society. I've been at the Humane Society for about three years and I have been in animal welfare for over 30 years.

I'm here today to ask the Committee, to testify for HB 6591. Previous drafts of the bill had included a penalty provision. CHS urges the Committee to add a penalty to this bill, where any person who uses gunshot and causes an animal to suffer be charged with a felony crime. Without a penalty, this bill will be ineffective.

The Buddy Bill is named after a dog whose name was Buddy and he was one of my pets. He was surrendered to the Connecticut Humane Society at the Westport Shelter. Working with a rescue partner organization Buddy was adopted and then shot to death 40 hours after his adoption.

There was no provocation and Buddy was confined. He posed no risk.

I'm not only here to speak for Buddy but for all animals who suffer from such inhumane and callous treatment. The case was never prosecuted. While everyone was debating about



March 19, 2013

The Honorable Terry B. Gerratana  
The Honorable Susana M. Johnson  
Co-Chairs, Public Health Committee  
Connecticut General Assembly  
Room 3000, Legislative Office Building  
Hartford, CT 06106

Re. SUPPORT SB 1067

Dear Co-Chairs Gerratana and Johnson.

On behalf of the Connecticut Society of Dermatology and Dermatologic Surgery (CDS), the American Academy of Dermatology Association (AADA), and the American Society for Dermatologic Surgery Association (ASDSA), we are writing to voice our strong support for SB 1067, which prohibits facilities from referring to themselves as "medical spa," "medspa" or "medispa," in advertising unless they employ a physician medical director to oversee procedures and require that this physician medical director be onsite when medical procedures are performed. We would also support amendment language to require that a good faith appropriate patient examination be conducted by the supervising physician before the initial procedure or course of treatment, and to require that advertisements be transparent with regard to health care providers' level of licensure, training, and board certification.

Members of the CDS, the AADA, and the ASDSA are treating numerous patients with horrific complications who have received a cosmetic medical procedure in a spa, beauty salon or some other facility where onsite physician supervision does not exist. Many patients are lured into these facilities by false, deceptive and misleading advertising. These practices are not concerned with patient safety, but rather are interested only in financial gain.

It should be noted that the problem lies not with the medical spa model, itself, but rather with non-physician-owned medical spas that do not provide adequate physician supervision and oversight. There are many legitimate, safe, physician-owned medical spas that operate with a high standard of patient care. However, lack of regulation and enforcement has enabled a large number of medspas to offer cosmetic medical procedures by inadequately trained or supervised persons to an unsuspecting public.

Our organizations have, on an ongoing basis, received a number of reports from our members who have been solicited to act as medical directors in name only, in a medical spa, or "medspa" in exchange for a monthly fee. We have become increasingly concerned about the proliferation of non-physicians practicing medicine and its impact on patient safety. Recent studies conducted by the ASDSA have shown an increase in patient complications resulting from this trend. A 2005 study of laser complications by non-physicians published in *Skin and Aging* magazine found that, "Eighty two percent of all complications occurred in facilities that had no direct physician supervision. Of these, 57% were in facilities with a 'medical director' who had limited training in dermatologic procedures and laser/light-based therapy. Of all the complications, 78% occurred in non-traditional medical facilities, such as free-standing medical spas and laser centers in shopping malls."<sup>1</sup> According to unpublished data by Mathew M Avram, MD, JD, the percentage of medical malpractice lawsuits involving the non-physician use

<sup>1</sup>Narurkar, V. Complications from Laser Procedures Performed by Non-Physicians. *Skin & Aging* 2005, 13, 9: 70-71

of medical lasers has grown steadily over the past four years, from just 38 percent of lawsuits in 2008 to 78 percent of lawsuits in 2011

It is the position of the CDS, the AADA, and the ASDSA that the practice of medicine involves diagnosis, treatment, or correction of human conditions, ailments, diseases, injuries, or infirmities whether physical or mental, by any means, methods, devices, or instruments. The practice of medicine includes, but is not limited to undertaking to perform any surgical operation upon any person; performing any act or procedure that uses a biologic or synthetic material, or chemical application of any kind if it alters or damages or is capable of altering or damaging living tissue; and performing any act or procedure using a mechanical device, or displaced energy form of any kind if it damages or is capable of damaging living tissue

Such acts or procedures include, for example, the use of all lasers, light sources, microwave energy, electrical impulses, chemical application, particle sanding, the injection or insertion of foreign or natural substances, or soft tissue augmentation. Living tissue is any layer below the dead cell layer (stratum corneum) of the epidermis. The epidermis, below the stratum corneum, and dermis are living tissue layers. Certain FDA-approved Class I and II devices, by their intended or improper use, can damage below the stratum corneum. Therefore, their use and the diagnosis and treatment surrounding their use, constitutes the practice of medicine.

Additionally, we would support an amendment to require a good faith appropriate examination be conducted by the overseeing physician before the initial procedure or course of treatment. Such a requirement ensures that a patient does not have pre-existing conditions which would render treatment harmful or ineffective. For example, an appropriate physician exam allows for accurate medical diagnosis for the treated condition, i.e. rather attempting to remove that unsightly "brown spot" a patient or untrained practitioner may believe to be purely cosmetic, a patient has the opportunity to receive a biopsy or skin cancer treatment as needed. Pre-existing conditions such as herpetic lesions could be inflamed by laser treatments. A preliminary exam also gives the physician the ability to prescribe the correct laser setting and proper laser for the patient's skin type; skin of color or that is tanned can be burned if the wrong laser or wrong setting is used.

We encourage implementing legislation that provides the state with simple mechanisms to improve transparency in services provided by healthcare professionals by prohibiting deceptive and misleading advertising. Patients deserve to know more about a healthcare professional – and to be able to trust that the person in the white coat providing medical care is licensed or certified to do so.

While the CDS, the AADA, and the ASDSA have the utmost respect for other health providers practicing within their scope of practice and training, we believe that patients deserve the opportunity to make informed decisions about from who they receive medical treatment. The proposition of asking detailed questions of a provider's qualifications and credentialed just as one is about to put one's health and well-being in that provider's hands can be understandably daunting. The use of clear terminology and transparency lessens the likelihood of misunderstandings.

A 2007 consumer survey conducted by the American Society for Dermatologic Surgery found that when selecting a practitioner, consumers are most interested to know the procedure will actually be done by a physician (rather than an assistant) and that the practitioner is board-certified and, therefore, qualified to do the work. However, the same survey indicated that consumers tend to have more information about procedures than they do about practitioners. This suggests that while patients are researching their cosmetic medical procedures in advance

of treatment, there is an information gap in terms of the provision of accurate information regarding the level of training and licensure of the person performing these medical treatments.

For these reasons, we strongly support SB 1067. Thank you again for your consideration. For further information, please feel free to contact Debbie Osborn, Executive Director at the CDS, at [eyemaster2020@yahoo.com](mailto:eyemaster2020@yahoo.com).

Sincerely,



Philip Kerr, MD  
President  
Connecticut Dermatology  
& Dermatologic Surgery Society



Dirk M. Elson, MD, FAAD  
President  
American Academy of  
Dermatology Association



Timothy C. Flynn, MD  
President  
American Society for  
Dermatologic Surgery  
Association

**STATE OF CONNECTICUT**

DEPARTMENT OF PUBLIC HEALTH

**TESTIMONY PRESENTED BEFORE THE PUBLIC HEALTH COMMITTEE  
March 20, 2013****Jewel Mullen MD, MPH, MPA, Commissioner, (860) 509-7101****Senate Bill 1067 - An Act Concerning The Provision of Certain Services at Medical Spas**

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The Department of Public Health provides the following information with regard to Senate Bill 1067.

The bill seeks to define a "medical spa" and to require that each such spa have a Connecticut licensed physician to supervise and be on-site at all times when services are being provided.

The Department appreciates the concept of the bill, which seeks to ensure that cosmetic services are provided by trained and qualified personnel under the supervision of a physician. However, the bill contains no enforcement procedures or penalties for noncompliance. If this bill moves forward, the Department would appreciate the opportunity to work on language that might accomplish a level of public protection, while avoiding a fiscal impact to the Department.

Thank you for your consideration of the Department's views on this bill.

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