

**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
PUBLIC HEALTH COMMITTEE
Wednesday, February 23, 2011**

**HB 5324, An Act Prohibiting A Health Care Provider From
Including A Copy Of A Person's Driver's License In The
Person's Health Care Records**

The Connecticut Hospital Association (CHA) appreciates the opportunity to submit testimony concerning **HB 5324, An Act Prohibiting A Health Care Provider From Including A Copy Of A Person's Driver's License In The Person's Health Care Records**. CHA has three significant concerns regarding the implementation of HB 5324, which can be addressed by adding some clarifying text to the proposed bill.

First, there are specific federal HIPAA verification standards that require providers to be sure that only authorized people have access to copies of medical records. This obligation is not optional, it is mandatory, and it applies every time someone requests access to his or her records or asks for the records to be sent out.

The relevant portion of HIPAA provides as follows:

45 CFR 164.514 (h)

(1) Standard: Verification requirements. Prior to any disclosure permitted by this subpart, a covered entity must:

(i) "...verify the identity of a person requesting protected health information and the authority of any such person to have access to protected health information under this subpart, if the identity or any such authority of such person is not known to the covered entity;

(ii) Obtain any documentation, statements, or representations, whether oral or written, from the person requesting the protected health information when such documentation, statement, or representation is a condition of the disclosure under this subpart.

Many providers use a driver's license to meet this standard. To ensure that Connecticut law does not conflict with HIPAA, or impede the ability of providers to verify that people are who they claim to be, we request that language be added to clarify that providers are permitted to view (even if they may not copy) a person's driver's license.

Second, the proposed bill does not apply to hospitals, and applies only to the individual practitioners listed in the proposal. We recommend adding clarifying language to ensure that patients and providers understand that hospital records might still contain this information.

Third, existing medical records, both in paper and electronic format, already contain copies of driver's license photos. Reviewing all records and obliterating portions of those records would be both incredibly expensive from a resource perspective, and also would violate accepted federal and state practices for correction and retention of medical records. We recommend adding clarifying language that grandfathers existing records.

To address these possible challenges, we suggest the following revisions:

Section 1. (NEW) (Effective October 1, 2011) (a) No provider of health care services, in connection with rendering such services to or on behalf of a person, may (1) make a photostatic copy of the person's driver's license, as defined in section 14a-1 of the general statutes, or (2) retain a photostatic copy of the person's driver's license in any records maintained by such provider. A provider, when seeking renewal of a professional license issued by the Department of Public Health, shall certify to the department that the provider is in compliance with the provisions of this section. For purposes of this section, "provider" means any person or organization that furnishes health care services and is licensed or certified by the Department of Public Health to furnish such services pursuant to chapters 370 to 373, inclusive, 375 to 384c, inclusive, 388, 397a, 398 or 399 of the general statutes or is licensed or certified by the department pursuant to chapter 368d of the general statutes.

(b) Nothing herein shall prohibit a provider from requesting a person present photo identification, including but not limited to a driver's license, to verify the person's identity.

(c) This Act shall not apply to copies of a driver's license placed in a medical record prior to October 1, 2011.

Thank you for your consideration of our position.

For additional information, contact CHA Government Relations at (203) 294-7310.

JDI:pae