**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
INSURANCE AND REAL ESTATE COMMITTEE
Tuesday, February 21, 2023**

**HB 6620, An Act Promoting Competition In Contracts Between
Health Carriers And Health Care Providers
SB 983, An Act Limiting Anticompetitive Health Care Practices**

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **HB 6620, An Act Promoting Competition In Contracts Between Health Carriers And Health Care Providers** and sections 1 and 2 of **SB 983, An Act Limiting Anticompetitive Health Care Practices.**

Connecticut hospitals continue to meet the challenges posed by the COVID-19 pandemic and are now facing new challenges of treating sicker patients than they saw before the pandemic, with a dedicated but smaller workforce who are exemplary but exhausted. They are also experiencing significant financial hardships brought on by record inflation. Through it all, hospitals have been steadfast, providing high-quality care for everyone who walks through their doors, regardless of ability to pay.

Hospitals and health systems are still facing the extreme aftershocks of a staggering once in a generation public health crisis and this is not the time to consider the significant changes to the healthcare delivery system that are proposed in HB 6620 and SB 983. HB 6620 and SB 983 would bar certain contract provisions between healthcare providers and payers. We are concerned because the bill would alter patient access at a time when deferred care and regular, community-based care are still recovering from the pandemic.

Connecticut hospitals strive to provide patients with the care they need, when they need it, in a location that is both accessible and convenient to them.

HB 6620 and SB 983 prohibit the inclusion of an "all-or-nothing" clause in contracts between healthcare providers and health insurers. Continuity of care is so important to good outcomes, especially for those patients undergoing a course of treatment that may span months or even years. The opportunity to seek care through a network of providers at locations convenient and accessible to the patient are paramount to continuity and give the best chance for clinical

success. The sections of HB 6620 and SB 983 that would bar "all-or-nothing" arrangements would mean healthcare systems would not be permitted to negotiate with payers to ensure patients will have coverage for the full spectrum of services in a care network and to ensure patients can choose their doctors and care team. That prohibition would have a negative effect on patient access and continuity of care.

With respect to the provisions related to "anti-tiering," should the Committee continue to pursue this legislation, we ask that important safeguards be added to the "tiering" language. Specifically, the legislation should require payers to be transparent with the standards that they adopt when slotting providers into tiers. To the extent these standards are updated or changed, payers should be required to notify providers of those changes 90 days prior to the changes being made. The legislation should also provide for a process by which providers are able to contest the tiering decisions made by payers. Finally, the Department of Insurance should regularly audit payer compliance with those tiering standards and processes. We are attaching language that accomplishes this transparency.

Our members have experience with tiered networks and the opaque processes that insurers use to make determinations about placement in tiers. We also know from the experience of a neighboring state where similar legislation was implemented that payers' processes became even more opaque and seemingly more random when state law stripped providers of the ability to negotiate fairly.

HB 6620 and sections 1 and 2 of SB 983 seek to reach into existing contracts and make statutory changes. We respectfully ask that the legislature not interfere with existing contracts that have been negotiated between healthcare providers and health insurers. Changes in law that materially affect contractual rights should be prospective.

If the Committee decides to move forward with this bill, in addition to our two recommendations above (adding transparency language to the tiering provisions of the bill and making the changes prospective), we ask the Committee to protect hospitals from health carriers' unilateral changes in contract provisions by policy. Health carriers should not be able to unilaterally change terms of a contract by policy.

Thank you for your consideration of our position. For additional information, contact CHA Government Relations at (203) 294-7310.

Proposed Amendment to HB 6620 and SB 983:

Add the following new subsection to each bill:

(New Subsection) Any contract involving a tiered network that is entered into, renewed or amended on or after January 1, 2023 between a health carrier and a participating provider shall include:
(1) a description of the standards used by such health carrier and its intermediaries for selecting and tiering, as applicable, participating providers and each health care provider specialty, including definitions and specifications of measures related to quality, cost, efficiency, satisfaction and any other factors that are used in developing such standards and measuring performance under such standards, with clear delineation of any inclusions or exclusions under each measure;
(2) a defined time period that is sufficient for measuring performance based on such standards, which shall be no shorter than one year;
(3) a requirement that the health carrier provide ninety (90) days written notice to tiered network participating providers before implementing any changes to such standards and measurements; and
(4) a description of the grievance process enabling a participating provider to appeal the results of tiering decisions and performance measurement.

Add a new section to each bill:

Subsection (f) of Section 38a-472f of the general statutes is repealed and the following is substituted in lieu thereof *(Effective January 1, 2023)*:
(f)(1) Each health carrier shall develop standards, to be used by such health carrier and its intermediaries, for selecting and tiering, as applicable, participating providers and each health care provider specialty. Such standards shall be set forth in the contract with each participating provider pursuant to Section 1 of this Act and shall remain in place for a defined time period that is sufficient for measuring performance based on such standards, which shall be no shorter than one year. The health carrier shall provide each participating provider with ninety (90) days written notice before implementing any changes to such standards and measurement and shall establish a grievance process enabling a participating provider to appeal the results of performance measurements and tiering decisions.

……

(4) Each health carrier shall make the standards required under subdivision (1) of this subsection available to the commissioner for review and shall post on its Internet web site and make available to the public a plain language description of such standards, including all measures and corresponding definitions and specifications used to tier participating providers and evaluate their performance within each tier. Each health carrier shall post on its Internet web site a description of the grievance process for providers wishing to appeal tiering and performance measure decisions and shall post a notice to inform health carrier members when a participating provider has appealed any such decision.