



**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
PUBLIC HEALTH COMMITTEE
Wednesday, March 6, 2024**

SB 9, An Act Promoting Hospital Financial Stability

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **SB 9, An Act Promoting Hospital Financial Stability**. CHA opposes the bill.

Connecticut hospitals are critical to their communities. They are confronting the challenges posed by a post-pandemic healthcare system with an exemplary healthcare workforce that continues to provide outstanding care. But challenges remain. Hospitals are treating sicker patients, it continues to be challenging to hire and retain staff, and the financial headwinds are grave. Through it all, hospitals are steadfast, providing high-quality 24-hour care for everyone who walks through their doors, focusing on making Connecticut's healthcare system more equitable, and driving world-class innovation right here in Connecticut.

Section 1: Department of Public Health (DPH) Regulatory Authority

Section 1 authorizes DPH to assess civil penalties up to \$25,000 on institutions, including hospitals, for any violation of a statute or regulation. This new authority to impose monetary penalties on hospitals would be in addition to the Commissioner's existing statutory powers to revoke, suspend, or censure a license and to order compliance or place a hospital on probation.

CHA opposes Section 1 because it runs counter to the consensus among patient safety and quality improvement experts that punitive measures do not improve the quality of care, and because it is unnecessary, as hospitals already pay fines for healthcare violations as part of the DPH regulatory consent agreement process.

In this culture of increasing awareness about what improves patient care and what does not, national experts, including patient-oriented advocates such as the Institute of Medicine, the National Center for Patient Safety, and The Joint Commission, agree that a punitive focus on accountability is a stumbling block to improvement and that non-punitive approaches that promote error prevention and collaborative analysis of system breakdowns facilitate true accountability and quality improvement.

Section 2: Emergency Department Diversion Requirement

Section 2 requires DPH to establish emergency department diversion requirements, the permissible grounds for a hospital to declare a diversion, requirements for hospitals to receive diverted patients, and reporting requirements for hospitals. Section 2 requires a hospital to provide notice to DPH prior to declaring an emergency department diversion and authorizes DPH to assess a civil penalty up to \$25,000 against a hospital organization that violates the law (EMS services also face DPH discipline if they violate the diversion requirements).

CHA is concerned that Section 2 requires the creation of emergency department diversion requirements and reporting but does not provide hospitals with any assistance in addressing what is known to be the underlying causes of emergency room overcrowding, namely, the underfunding of Medicaid rates for physicians and specialists that limit access to preventive care; the lack of community resources, services, and inpatient beds for behavioral health patients; the burdensome commercial insurance practices relative to prior authorization; and the increasing of state administrative burdens.

CHA opposes increased regulatory requirements which do not provide any assistance in addressing the underlying issues and take clinical decision-making away from the clinicians.

Sections 3 to 5: Certificate of Need (CON)

Sections 3, 4, and 5 make changes to the CON program. Though CHA supports several of the changes, we cannot support these Sections as they do not address the foundational problems with the CON program. CHA urges the Committee to make other desperately needed changes to the CON program. Legislative attention should be focused on efforts to improve and expedite the process, remove unnecessary costs, and reduce the regulatory burden on hospitals and healthcare systems.

CHA urges the Committee to add the following provisions to the bill that will:

- Streamline the process by adopting efficient timelines and deadlines applicable to Office of Health Strategy (OHS) CON processes (and activities of the Office's CON unit), including deadlines to close hearing dockets and to improve the usefulness and effectiveness of CON and its oversight
- Add deemed approved language that would result in the automatic approval of a CON application if deadlines are not met
- Establish which services or categories should be subject to an expedited review, establish an expedited review process, and establish an expedited process for termination or reduction of designated services or categories
- Limit extensions in the review process to avoid adding unnecessary delays in decision-making that inhibit access to care
- Reduce required duplication of efforts and/or redundant information requests in the CON process

- Ensure all entities providing services or conducting activities governed by the CON process are held to the same standards
- Eliminate the use of non-germane provisions of settlement agreements and approvals that exceed the CON statutory framework and requirements
- Ensure consistent application of the official statutory principles for CON review
- Transfer responsibility for conducting the cost market impact review to the Attorney General's Office

Adopting these provisions will fundamentally improve the CON process, bringing administrative simplifications and cost savings to the delivery of care throughout the state.

Section 6: New Financial Reporting

Section 6 requires hospitals to submit quarterly reports to OHS with detailed financial information with the apparent goal of identifying hospitals in financial distress, notwithstanding the significant amount of information already filed with OHS that leads to its Annual Report on the Financial Status of Connecticut's Short-Term Acute Care Hospitals. This annual report already provides a five-year look back on a hospitals' financial stability and identifies hospitals in distress.

Section 6 looks to identify hospitals in distress but once again does not provide hospitals with any assistance in addressing their financial distress. CHA is dismayed that nowhere does it provide assistance: not in Medicaid underfunding, not in addressing the significant increases in expenses caused by the healthcare workforce shortage, and not in addressing the burdens of state and commercial payer regulatory burdens. CHA asks that the state take action to address the causes of financial distress before imposing additional statutory requirements on hospitals and health systems.

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