



**TESTIMONY OF
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SENIOR VICE PRESIDENT, GOVERNMENT AND REGULATORY AFFAIRS
CONNECTICUT HOSPITAL ASSOCIATION
BEFORE THE
PUBLIC HEALTH COMMITTEE
Friday, March 14, 2014**

**HB 5535, An Act Concerning Notice Of A Patient's Observation Status And Notice
Concerning The Qualifications Of Those Who Provide Health Care
And Counseling Services**

My name is James Iacobellis. I am Senior Vice President, Government and Regulatory Affairs at the Connecticut Hospital Association (CHA). I am testifying today concerning **HB 5535, An Act Concerning Notice Of A Patient's Observation Status And Notice Concerning The Qualifications Of Those Who Provide Health Care And Counseling Services**. CHA opposes the bill as written.

Before outlining our concerns, it's important to detail the critical role hospitals play in the health and quality of life of our communities. All of our lives have, in some way, been touched by a hospital: through the birth of a child, a life saved by prompt action in an emergency room, or the compassionate end-of-life care for someone we love. Or perhaps our son, daughter, husband, wife, or friend works for, or is a volunteer at, a Connecticut hospital.

Hospitals treat everyone who comes through their doors 24 hours a day, regardless of ability to pay. In 2012, Connecticut hospitals provided nearly \$225 million in free services for those who could not afford to pay.

Connecticut hospitals are committed to initiatives that improve access to safe, equitable, high-quality care. They are ensuring that safety is reinforced as the most important focus—the foundation on which all hospital work is done. Connecticut hospitals launched the first statewide initiative in the country to become high reliability organizations, creating cultures with a relentless focus on safety and a goal to eliminate all preventable harm. This program is saving lives.

HB 5535 attempts to address two different issues, both of which can affect a patient's experience when seeking healthcare. CHA appreciates that the bill's purpose is to make a patient's healthcare experience easier and more transparent, but CHA opposes the bill as written because it will not accomplish these goals, and it will unnecessarily burden hospitals.

Section 1 of the bill is directed to "observation level" status at a hospital and would require a hospital to provide "oral and written notice to each patient that the hospital places in observation status" no later than 24-hours "after such placement."

Observation status is a type of billing and coding category for a patient that has presented to the hospital; the patient may not be medically safe to send home, but he or she does not meet the technical billing guidelines and insurance reimbursement requirements that qualify for an inpatient stay. Hospitals have no control over these billing criteria, which are the product of often complicated federal HHS and CMS billing rules, as well as private insurance rules.

Please know that hospitals are incredibly frustrated by the confusion, hardship, and negative effects that these billing and insurance rules cause for patients.

Hospitals are actively seeking clarification and changes from the federal government to respond to the harsh results that the observation status rules and inpatient criteria limitations have caused. Currently, this topic is being fiercely debated on a national level. A final rule was published by CMS in fall 2013 purportedly to clarify the application of observation level and inpatient criteria for Medicare billing. These efforts were almost universally criticized by hospitals and patient advocates alike as unhelpful to patients and confusing for providers, leading to a series of attempts at the federal level to amend the rules to be more workable. After a series of initial delays and failed efforts at clarifying language, CMS has now delayed the bulk of the new rule until September 2014.

We are hopeful that Congress will intercede and fix this issue in a way that supports patients and reimburses hospitals appropriately. We do not believe that taking action at a state level at this time will assist patients in a meaningful way, and we ask that you not take this action while the federal questions are being sorted out. We note that, with respect to Medicare beneficiaries, we believe that this bill oversteps the role of CMS in determining what notices are required for Medicare beneficiaries.

HB 5535 is also unworkable. Due to the vagaries of billing rules, hospitals will not always contemporaneously know whether a patient is on observation status or if a patient's next setting of care will be covered by insurance. Additionally, notifying patients who have already left the hospital will be unachievable in many cases. To comply with the bill, hospitals will likely be forced to give every patient a notice that he or she might be on observation status – which will only lead to greater confusion and potentially cause some patients to leave the hospital against medical advice or to forego necessary medical procedures.

Section 2 of the bill seeks to require all outpatient providers to list the “qualifications” of persons providing services, as well as a description of the services provided. The bill as drafted appears to require a hospital to list the credentials of every service provider for all outpatient services – a list that would be hundreds and sometimes thousands of providers long. This is both unworkable for providers and unhelpful to patients.

The bill’s exemption for “inpatient health care facilities” is not sufficient to cover hospital settings because it does not exempt a wide variety of services, including but not limited to the emergency department, clinics, same-day surgery, and diagnostic and testing services.

We ask that all hospital-related services be exempt from the requirements of Section 2 of the bill.

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