



**TESTIMONY OF  
CONNECTICUT HOSPITAL ASSOCIATION  
SUBMITTED TO THE  
PUBLIC HEALTH COMMITTEE  
Wednesday, February 20, 2013**

**HB 5978, An Act Prohibiting  
Patient Interviews In Common Areas Of Health Care Facilities**

The Connecticut Hospital Association (CHA) appreciates the opportunity to submit testimony concerning **HB 5978, An Act Prohibiting Patient Interviews In Common Areas Of Health Care Facilities**. CHA opposes the bill as written.

HB 5978's current language would prohibit healthcare facilities, including hospitals, from "allowing patients to be interviewed by staff members in common areas, such as the facility's waiting room." While CHA appreciates the goal of protecting patient privacy, the bill is unclear as to what actual practices will be prohibited, and the bill is inconsistent with federal HIPAA guidance that is specifically designed to balance patient privacy with quality of care and patient safety.

The bill is vague in that the terms "interview" and "common areas" are so broad that in practice, they will be interpreted to ban *all* communications with a patient in any area where a conversation may be overheard, regardless of the purpose or necessity of the communication, without consideration for what is clinically best for the patient, and even if the patient would prefer to conduct the conversation in a common area.

It is frequently clinically appropriate, and sometimes clinically necessary, to communicate with a patient in a waiting room or other common area, rather than have to relocate the patient solely to guard against the potential of being overheard. Patients who fit this category include: a patient with a broken leg, a patient who is extremely nauseated, a patient with a significant balance disorder, a patient experiencing high levels of pain that make it difficult to move, a patient with a condition that is acutely impairing sight, a patient who is agitated and disoriented, among hundreds of other presenting conditions. While protecting privacy is an important goal it cannot be safely applied in a one-size fits all manner.

Federal HIPAA privacy guidance, applicable to all healthcare facilities, includes a balanced approach to communications in common areas that puts the patient's welfare first, even if some level of privacy may be compromised. The following excerpt from federal HIPAA guidance explains the necessary balance. (Note that under HIPAA, a provider is also called a "covered entity.")

“Can health care providers engage in confidential conversations with other providers or with patients, even if there is a possibility that they could be overheard?”

Answer:

Yes. The HIPAA Privacy Rule is not intended to prohibit providers from talking to each other and to their patients. Provisions of this Rule requiring covered entities to implement reasonable safeguards that reflect their particular circumstances and exempting treatment disclosures from certain requirements are intended to ensure that providers’ primary consideration is the appropriate treatment of their patients.

The Privacy Rule recognizes that oral communications often must occur freely and quickly in treatment settings. Thus, covered entities are free to engage in communications as required for quick, effective, and high quality care. The Privacy Rule also recognizes that overheard communications in these settings may be unavoidable and allows for these incidental disclosures.”

U.S. Department of Health and Human Services  
Office of Civil Rights  
Frequently Asked Questions on the HIPAA Privacy Rule

We believe that HB 5978 would deviate from the HIPAA Privacy Rule so dramatically, and be applied so broadly, that it would place patient safety and quality of care in jeopardy in many circumstances. We urge you not to alter the current well-balanced patient-centered protections already provided by HIPAA.

Thank you for your consideration of our position.

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