



**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
PUBLIC HEALTH COMMITTEE
Wednesday, March 13, 2019**

**HB 7301, An Act Concerning The Department Of Public Health's
Recommendations Regarding Remote Access To Electronic Medical Records
By The Department Of Public Health**

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **HB 7301, An Act Concerning The Department Of Public Health's Recommendations Regarding Remote Access To Electronic Medical Records By The Department Of Public Health**. CHA has concerns about the bill as written.

Before commenting on the bill, it's important to point out that Connecticut hospitals and health systems provide high quality care for everyone, regardless of their ability to pay. By investing in the future of Connecticut's hospitals, we will strengthen our healthcare system and our economy, put communities to work, and deliver affordable care that Connecticut families deserve.

HB 7301 seeks to enhance the ability of the Department of Public Health (DPH) to access medical records of patients after a report: (1) about a communicable disease or a condition under the existing reporting system; or (2) to the tumor registry program. Specifically, the bill attempts to grant DPH direct, remote access to hospitals' medical records systems "in a manner approved by the Commissioner of Public Health."

CHA is concerned that the bill, as written, raises compliance issues pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The underlying laws in the bill were developed long before HIPAA, and those laws have inconsistencies with how HIPAA laws and regulations function. For many years, CHA has advocated that Connecticut's health laws need to be modernized to align with HIPAA. HB 7301 presents a ready-made opportunity to move ahead with making some of those alignments.

HIPAA standards distinguish between mandatory disclosures of protected health information to governmental agencies as "required by law" versus permissible disclosures made as part of "public health activities." The underlying laws fail to fit cleanly into either category of "required by law" or permitted "public health activities" and, therefore, cause a conflict with HIPAA that could jeopardize patients' privacy rights.

HIPAA requires hospitals and other providers to understand whether a grant of access to a governmental authority, including remote access, is either “required by law” or a public health activity, because HIPAA dictates different controls for those two distinct situations. It is also unclear whether the underlying law, or the bill as written, is sufficient to give DPH access to a patient’s entire medical record, regardless of the information in it or when it was collected. Access to the entire record is what will happen if remote access is mandated.

We ask that the bill be modified to clarify that the mandates for granting DPH access, including remote access, are “required by law” and “apply to each patient’s entire record.”

Also, not every hospital will be able to allow immediately the type of access described in the bill because it depends on the technology used by both the hospital and DPH. We ask that the following language be added at the end of the existing text in line 70: “The Department of Public Health shall work with each hospital to establish remote access to the extent the hospital’s system permits such access.”

We appreciate the opportunity to work with the Committee and DPH in advancing the modernization of Connecticut’s public health statutes to better align with HIPAA’s federal requirements.

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