



**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
JUDICIARY COMMITTEE
Monday, March 18, 2019**

**SB 1059, An Act Concerning The Unauthorized Practice Of Law And The Prevention Of
False Long-Term Care Legal Planning And Advisement**

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **SB 1059, An Act Concerning The Unauthorized Practice Of Law And The Prevention Of False Long-Term Care Legal Planning And Advisement**. CHA opposes the bill.

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.

The concept behind SB 1059 appears to be to stop unethical practices by people and companies that may mislead or take advantage of individuals, including the elderly, who need estate planning advice or to understand Medicaid eligibility. As a concept, CHA supports identifying illegitimate vendors who are preying on the elderly. But SB 1059 is not tailored properly to serve its stated goal, and would have significant negative consequences.

SB 1059 seeks to limit all communications that include "advice" (whether that advice is compensated or not) about advance care directives, how to afford or pay for a nursing home, and how Medicaid eligibility or applications work unless the person sharing the advice is an attorney or a government employee assisting with Medicaid. That is an overreach that we urge you to reject.

An entire continuum of healthcare and social service workers supports patients in understanding reimbursement and patient rights at various stages of care. Clinicians and other staff are often involved in helping patients understand their choices for advance directives and advance care planning. SB 1059 would prohibit those conversations. If passed, a nursing home could not tell a person how Medicaid works, or whether Medicaid might help pay for a nursing home stay. Only a lawyer or the government could provide this information. That restriction will hurt, not help, patients and families trying to make important choices about their care or ability to access care.

The bill would also affect the ability of everyday citizens to share their experiences and advice with their family, friends, neighbors, and loved ones.

The bill would make it a felony for:

- (a) Adult children to sit down with their elderly parents to share their advice about living wills or have a frank discussion with their financial advisers or accountants about how to afford skilled nursing care;**
- (b) A physician to share advice about advance directives with a patient; or**
- (c) A spouse to share advice about any of these subjects with their own spouse.**

SB 1059 indicates that even publicly available, appropriate, and necessary information should be withheld from individuals, including patients, unless an attorney is hired to assist them. That vision promotes a false narrative. Laws, regulations, and administrative policies are not designed to be discussed solely by lawyers, yet lines 28-32 of the bill indicate just that.

The bill contains other drafting flaws that are problematic, including:

- (a) A lawyer is not needed to “execute” a “personal service agreement” as set forth in line 67, and proposing that a lawyer is required demonstrates a complete misunderstanding of what it means to “execute” a contract;
- (b) A lawyer is not the only professional able to give tax advice, yet line 72 would prohibit accountants from doing so in this instance. Moreover, lawyers are not the only people who can advise on “nursing home laws and regulations involving transfer of a patient from (i) a nursing home to another nursing home, (ii) a nursing home to home care, or (iii) from home care to a nursing home” as set forth at lines 55-57, and;
- (c) The bill would prohibit healthcare professionals from giving any advice about those settings of care, or advice about appropriate levels of care that is often necessary to comply with federal Medicare and Medicaid laws.

If better consumer protection is needed to deal with unethical and unscrupulous vendors who are targeting the elderly about benefits programs, then that should be addressed in an appropriately tailored fashion. But it’s entirely unacceptable to create a law that says healthcare providers, healthcare institutions, and other legitimate and licensed professionals (let alone regular people), are not allowed to provide advice to patients and their families about patients’ rights, patient access choices, care settings, advance care decision making, or payment options.

We urge you to reject SB 1059.

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