

**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
GENERAL LAW COMMITTEE
Thursday, February 25, 2021**

SB 893, An Act Concerning Consumer Privacy

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **SB 893, An Act Concerning Consumer Privacy**.

Before commenting on this bill, it is important to acknowledge that, since early 2020, Connecticut's hospitals and health systems have been at the center of the global public health emergency, acting as the critical partner in the state's response to COVID-19. Hospitals expanded critical care capacity, stood up countless community COVID-19 testing locations, and are a critical component of the vaccine distribution plan. Through it all, hospitals and health systems have continued to provide high-quality care for everyone, regardless of ability to pay. This tireless commitment to the COVID-19 response confirms the value of strong hospitals in Connecticut's public health infrastructure and economy and reinforces the need for a strong partnership between the state and hospitals.

SB 893 has the goal of increasing consumer protections from "big data" sellers. Unfortunately, in doing so, SB 893 also puts at risk legitimate data uses that are important to healthcare and healthcare advancement.

CHA has three key areas of concern regarding the bill.

First, SB 893 excludes some, but not all, healthcare use cases and circumstances, and it is difficult to understand the parameters of the exemptions. The exclusion language contained within SB 893 focuses almost exclusively on exempting data generated by, or originating from, healthcare entities already inside the healthcare continuum, or government actors working on healthcare issues. Those are important and necessary carve outs and CHA supports these exclusions, but they do not go far enough.

Problematically, SB 893 does not exempt the importation or acquisition of data by those inside the healthcare continuum, or by state government when working on healthcare issues, in situations where the data originates from external sources. This could interfere with the state or healthcare entities partnering with data aggregators such as Google Health or Apple Health, or national insurance companies, or other state governments or Tribal Authorities, and any

number of other data sources to acquire necessary data to solve healthcare issues. If those types of data acquisitions are permitted by federal law under the Health Insurance Portability and Accountability Act (HIPAA), and the 21st Century Cures Act, CHA asserts that they should be permitted by Connecticut law as well.

Second, there is substantial confusion around what healthcare entities are allowed to do with their own sourced data. For example, the term “research” is used inconsistently and many terms are defined differently than they are currently used in HIPAA. In addition, some clauses are internally contradictory, e.g., labeling “sensitive data” to specifically include race and ethnicity data, while at the same time exempting “healthcare data,” which does include those same elements. This inherent confusion will create a chilling effect on the ability to address treatment issues – including precision medicine – to perform research, to assist with community benefit activity, to assess social determinants of health, and to make better progress on health equity.

The data to which healthcare providers have access now are woefully insufficient to meet the challenges presented in the next five years and beyond. External data will be necessary. SB 893 risks interfering with the ability of those working on vital healthcare issues to access these data in the future.

Third, SB 893 does not take into account existing state law, and relies too heavily on other states’ privacy law language. While we recognize that other states may have adopted similar language, that is not sufficient to address Connecticut’s needs. For example, at lines 177-179, there is a specific exemption for “patient safety work product for purposes of the federal Patient Safety and Quality Improvement Act, 42 USC 299b-21 et seq.” Yet Connecticut’s patient safety organization statute’s patient safety work product protection (found in section 19a-127o of the general statutes) is not listed as exempt. Additionally, while other states may have adopted similar language to that in the bill, those laws are new and we lack the level of informed feedback necessary to assess possible negative impact on healthcare and healthcare innovation.

For these reasons, CHA opposes the bill.

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