



**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
PUBLIC HEALTH COMMITTEE
Monday, March 7, 2022**

**HB 5277, An Act Concerning The Establishment Of Technical
Standards For Medical Diagnostic Equipment That Promotes
Accessibility In Health Care Facilities**

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **HB 5277, An Act Concerning The Establishment Of Technical Standards For Medical Diagnostic Equipment That Promotes Accessibility In Health Care Facilities**. CHA opposes the bill as drafted.

Since early 2020, hospitals and health systems have been at the center of Connecticut's response to the COVID-19 public health emergency, acting as a vital partner with the state and our communities. Hospitals expanded critical care capacity, procured essential equipment and supplies, and stood up countless community COVID-19 testing locations. Hospitals have been an essential component of the statewide vaccine distribution plan including efforts to reach and serve historically under-resourced communities disproportionately affected by the virus. 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 the well-being of our communities and reinforces the need for a strong partnership between the state and hospitals.

CHA strongly supports improving diagnostic care for individuals with disabilities, who are often limited in their choices for accessing care compared with individuals without disabilities and recognizes the importance of ensuring diagnostic care.

Moving Ahead in Connecticut

CHA has been participating in regular meetings with patient advocates and representatives from the Citizens Coalition for Equal Access, the Department of Public Health, Connecticut Department of Aging and Disability Services, Department of Social Services, Connecticut State Medical Society, Connecticut Association of Health Care Facilities, Leading Age Connecticut, Connecticut Health Care at Home, Disability Rights Connecticut, Connecticut State Independent

Living Council, Davita Dialysis, Abbott Laboratories, Fresenius Medical Care North America, and the Radiological Society of Connecticut. Since 2021, this group has been working collaboratively to move forward on the issues affecting access, as well as improving provider education in this area. Through this series of meetings, CHA and other healthcare providers have been exploring how to promote best practices and solutions to meet the challenges at hand. CHA and other stakeholders are in the process of developing education and awareness training for healthcare providers working in hospitals. CHA supports, and facilitates, broadening the reach of this education to other healthcare providers in a variety of settings, including home care, long-term care, private physician practices, and prehospitalization care provided by emergency responders.

HB 5277 attempts to address this important issue. Specifically, the bill seeks to require Connecticut's Department of Public Health to adopt as regulation federal guidance drafted by the Architectural and Transportation Barriers Compliance Board (today more commonly known as the Access Board), without first being put through the normal rulemaking process.

The Access Board's rulemaking clarifies that the standards and guidance it promulgated are voluntary and that separate rulemaking is required before a mandate of this proportion would be adopted. For example, the Access Board did not make a determination of what entities should be exempt, what other potential solutions should be explored, feasibility issues, or whether the cost-benefit analysis is appropriate based on a variety of lawmaking standards—all issues that would be adjudicated through a formal rulemaking process.

The following is language from the Access Board's final rule:

The MDE Standards contain technical specifications to make the covered diagnostic equipment accessible; however, they do not impose any requirements on health care providers or medical device manufacturers because the Access Board has no statutory authority to implement or enforce the Standards. The second step of this two-step regulatory scheme would be when one or more federal agencies, through separate rulemakings, adopt the MDE Standards (whether in whole or in part) as mandatory for entities under their jurisdiction. Subsequent rulemakings by these "enforcing agencies" will identify the entities that must comply with the MDE Standards, and the extent to which medical diagnostic equipment must conform to the MDE Standards

82 Fed. Reg. 2810, 2810-2811 (January 9, 2017).

The rule is intricate and lengthy (set forth over 39 pages of the Federal Register), and clarifies that wholesale adoption of the standards should not be done until the appropriate administrative law principles were applied and met. Unless and until such time as federal law addresses these important administrative law steps, Connecticut would need to make those determinations, along with several other regulatory decisions. Under this bill, DPH would need the technical expertise and corresponding resources to properly assess and determine how to turn the guidance into regulations.

Most importantly for state policy makers to consider, federal authorities at the Office for Civil Rights have signaled that they intend to move ahead with some version of a federal mandate based on the Access Board medical diagnostic standards very soon and adopting federal recommendations that might not be part of a final federal policy would run the risk of conflicting state laws and federal rules, which may only serve as further barriers to access to care.

Next Steps

We respectfully ask that the Public Health Committee take no action on HB 5277 and allow time for the federal agencies to act. This will not impede continuing collaborative efforts to improve access and conduct healthcare provider education through the work of the stakeholder group. The work undertaken and envisioned by the stakeholder group will position the state to move forward swiftly once federal laws are passed and rules promulgated.

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