



**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
JUDICIARY COMMITTEE
Friday, March 3, 2023**

**HB 6797, An Act Concerning The Receipt Of Workers' Compensation Benefits And
The Provision Of Medical Records In Workers' Compensation Matters**

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **HB 6797, An Act Concerning The Receipt Of Workers' Compensation Benefits And The Provision Of Medical Records In Workers' Compensation Matters**. CHA opposes the bill as drafted.

Connecticut hospitals continue to meet the challenges posed by the COVID-19 pandemic and are now facing new challenges of treating sicker patients than they saw before the pandemic, with a dedicated but smaller workforce who are exemplary but exhausted. They are also experiencing significant financial hardships brought on by record inflation. Through it all, hospitals have been steadfast, providing high-quality care for everyone who walks through their doors, regardless of ability to pay.

HB 6797 seeks to make various changes to the processes surrounding the workers' compensation system and workers' compensation claims. CHA has concerns about the language that seeks to update the process for the release of medical records of workers' compensation claimants. Specifically, we believe that the language in the bill must be revised in several places to align with federal Health Insurance Portability and Accountability Act (HIPAA) mandates and to clarify the circumstances under which a provider may be required to release a patient's entire medical history.

Workers' compensation, as an insurance system, is not subject to HIPAA because it is not a "health insurer" or a health program. But virtually every healthcare provider in Connecticut is subject to HIPAA – regardless of the payer or the source of reimbursement for care. The language in the current draft of this bill does not align with the HIPAA Privacy Rule, chiefly with 45 CFR 164.508.

The HIPAA Privacy Rule has very specific requirements for when a patient can be forced to provide an authorization and dictates the details that must be in an authorization. Pursuant to applicable preemption rules, state law cannot supersede the specific obligations of Section 164.508 when crafting an authorization for release by a HIPAA covered provider. In short, if an authorization is needed for release of records by a provider that follows HIPAA, it must be a HIPAA compliant authorization.

We also have concerns about the language that indicates a patient's entire medical record and history must be disclosed, including reproductive healthcare records, gender-affirming healthcare records, mental and behavioral health records, HIV records, abuse and trauma records – and other similar, sensitive records that may or may not be germane to an individual's workers' compensation claim.

General Statutes Section 31-294f gives employers automatic access to workers' compensation "medical reports." If an employer is headquartered in a state that does not permit abortions could the patient be fired for having a history of abortion in their reports and records?

Connecticut law also allows an injured employee to opt out of accepting workers' compensation coverage for medical care. General Statutes Section 31-294e makes the release of an entire medical history early in the process potentially problematic.

The Office for Civil Rights, the subagency of the Department of Health and Human Services (HHS) that is responsible for federal HIPAA enforcement, has provided guidance on release of records for workers' compensation that outlines the limitations on release, but also clarifies the pathways to successful release of a patient's records for workers' compensation claims, including a detailed discussion of releases with or without a patient's authorization, and the requirement to adhere to HIPAA Privacy Rule's "minimum necessary" standard. We offer the following link for your consideration [[Disclosures for Workers' Compensation Purposes | HHS.gov](#)].

CHA would be happy to work with the Committee to find ways to reduce barriers to record exchange in cases where the necessary privacy mechanisms have been satisfied. The legislation, as drafted, does not meet those necessary privacy standards.

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