



**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
GENERAL LAW COMMITTEE
Thursday, February 29, 2024**

SB 2, An Act Concerning Artificial Intelligence

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **SB 2, An Act Concerning Artificial Intelligence**. CHA has concerns about the bill as drafted.

Connecticut hospitals are critical to their communities. They are confronting the challenges posed by a post-pandemic healthcare system with an exemplary healthcare workforce that continues to provide outstanding care. But challenges remain. Hospitals are treating sicker patients, it continues to be challenging to hire and retain staff, and the financial headwinds are grave. Through it all, hospitals are steadfast, providing high-quality 24-hour care for everyone who walks through their doors, focusing on making Connecticut's healthcare system more equitable, and driving world-class innovation right here in Connecticut.

CHA believes the bill is unworkable with respect to healthcare (which is a highly regulated arena, including for A.I. issues) and urges the Committee to exempt healthcare, healthcare technology, and healthcare research from the onerous oversight elements of the bill.

CHA followed with interest the multiple meetings of the Connecticut Artificial Intelligence Working Group, a task force that included a broad and diverse constituency, bringing together experts from the technology and business industries, scholars, higher-education experts, and government officials. CHA was encouraged to hear a central and repeated theme that Connecticut should strive to be a leader in technology and that the Working Group universally recognized that more state resources will be needed immediately to educate and maintain a skilled workforce, to ensure that teachers have the tools to keep Connecticut's children on track in the ever-changing world that technology creates, and to position Connecticut to be a technology business leader.

Many portions of SB 2 seek to move forward with those necessary supports and resources. While CHA would have preferred more direct and immediately available support, the recognition that the state will need to invest in businesses and education is laudable and consistent with the Working Group meetings.

Less consistent with those goals, and an impediment to positioning Connecticut as a leader in the technology industry, are the provisions in SB 2 that create barriers to and aggressive government oversight of technology innovation and development. The level of oversight is no doubt well-intended, but it is ultimately misguided in that it essentially gives the Office of the Attorney General pre-approval powers over private industry's technology planning and development, which risks having a negative impact on work done in and for Connecticut healthcare providers and patients.

It makes sense for the government to identify and stop illegal discrimination. It also makes sense that Connecticut wants the world to know that illegal discrimination is not welcome here and wants to guard against activities that may be part of a scheme of illegal discrimination.

It does not make sense to empower state government to pre-screen and pre-censor (including through forced self-censorship) technology development even when there is no illegal discrimination. That approach is not aligned with Connecticut's leadership in business, industry, or A.I. SB 2 muddles the concept of using data that may be evidence-based and purposefully striated by demographics or other classification with the concept of illegal systemic or algorithmic discrimination; the bill fails to be clear on where those lines diverge.

Hospitals and health systems and the technology partners and vendors with which they work must follow complex federal rules from various agencies. These include but are not limited to:

- The development, functionality, and certification of electronic health record technology systems, including mandatory features for clinical decision support as mandated and directed by federal law and as overseen by the Health and Human Services' Office of National Coordinator. See, e.g., 45 CFR 170.315, which prescribes elaborate certification criteria for clinical decision support (CDS) and mandates the collection of demographic information to be used in those tools. By its plain language, SB 2 would make the Connecticut Attorney General a reviewer of CDS software, inconsistent with federal law
- Medical device regulations and approvals are overseen by the FDA; with specific inclusion-exclusion criteria pursuant to federal law for artificial intelligence and machine learning-related device functionality. See, e.g., Section 520(o)(1)(E) of the Food Drug and Cosmetics Act. By its plain language, SB 2 would make the Connecticut Attorney General a reviewer of medical device approvals, which is likely not allowed by federal law

Similarly, healthcare providers deploy predictive technologies (including A.I.-driven solutions) to protect against drug diversion, improve patient scheduling (including reducing "no shows" that are costly to healthcare), assess medication management, and adjust refills. If developers and vendors need to go through additional administrative hurdles just to obtain software, these solutions will become more expensive (at a minimum) and potentially unavailable to Connecticut healthcare providers. It is unclear how and to what extent SB 2 would apply to these situations.

To avoid interfering with the obligations of and innovations in healthcare, we urge the Committee to exempt healthcare providers and the vendors and developers with whom they work from SB 2 for all matters, especially for matters where federal law already regulates activities.

Absent that exemption, we implore the Committee to better clarify when SB 2 would apply to healthcare given the broad definition of “algorithmic discrimination” and its unclear language surrounding what is or is not allowed.

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