



**TESTIMONY
OF
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CONNECTICUT HOSPITAL ASSOCIATION
JUDICIARY COMMITTEE**

Monday, March 18, 2002

SB 606, An Act Concerning Abuse In Health Care Facilities

Good morning Senator Coleman, Representative Lawlor and members of the Judiciary Committee. My name is Carrie Brady and I am Vice President of Patient Care and Regulatory Services of the Connecticut Hospital Association. CHA appreciates the opportunity to come before the Committee today to testify regarding **SB 606, An Act Concerning Abuse In Health Care Facilities**.

Abuse in health care facilities is tragic and must not be tolerated. CHA applauds this Committee's efforts to reduce abuse, but we have concerns about several provisions in SB 606.

SB 606 creates five new crimes related to patient or resident abuse. CHA is concerned that "abuse" is defined too broadly and will trivialize true abusers. "Abuse" includes, among other things, "a pattern of conduct that causes or is likely to cause psychological injury to a patient or resident." "Psychological injury" is not defined in the bill. "Psychological injury" is inherently subjective and CHA respectfully suggests that it should not be included in the definition of abuse.

Similarly, the bill defines "abuse" to include "a pattern of conduct that causes or is likely to cause physical injury or serious physical injury to a patient or resident." We respectfully suggest that physical injury is defined too broadly as "impairment of physical condition or pain." We can envision situations in which a patient may experience minor pain that should not be considered abuse. For example, if the facility serves hot coffee and patients routinely drink it too fast and burn their tongues, this could arguably be considered "abuse" under the bill.

The bill also defines "abuse" to include "the failure to provide treatment, care, goods or services necessary to the health or safety of a patient or resident, except when such failure is the direct result of insufficient staffing levels that have been reported to a high managerial agent." We cannot precisely define what goods or services are "necessary to the health or safety of a patient" and the reference to staffing levels makes this provision

even more confusing. It is not clear what type of conduct this provision is trying to address. Furthermore, this provision is unnecessary. If the facility fails to provide goods or services that are actually “necessary”, the failure will result in physical injury, which is already included in the definition of abuse. If the failure does not result in any injury to the patient, it should not be considered abuse.

CHA is also concerned about the definition and responsibilities of “high managerial agents.” A “high managerial agent” is broadly defined as “an officer of a care facility, the administrator and assistant administrator of a care facility, the director and assistant director of nursing services of a care facility, immediate supervisors, or any other agent in a position of comparable authority with respect to the formulation of the policies of a care facility or the supervision in a managerial capacity of subordinate employees.” The definition is arguably broad enough to include members of a hospital’s Board of Trustees.

The bill makes a high managerial agent of a care facility guilty of a class D felony if the agent “knows that a patient or resident of such care facility is being abused and fails to promptly take corrective action.” It is not appropriate to expect that high managerial agents always will be able to prevent improper actions of their employees. We believe existing law is sufficient to address the responsibilities of health care employers toward their patients.

We suggest that section 6 of the bill, which requires that all employees of a care facility sign a form acknowledging their obligation to report abuse, is unnecessary. We also note that section 8 requires the Department of Public Health to suspend or revoke the license of any person who violates any provision of the bill, including by failing to report abuse. We suggest that subsection 8(c) be amended to state that DPH “may” revoke the license instead of “shall”.

Thank you for your consideration of our position.

CCB:pas