



**TESTIMONY OF
PATRICK J. MONAHAN II
ON BEHALF OF THE
CONNECTICUT HOSPITAL ASSOCIATION
BEFORE THE
JUDICIARY COMMITTEE
Wednesday, March 14, 2007**

**HB 7328, An Act Concerning Enforcement Of The Charitable Purposes Of
Nonprofit Hospitals**

**HB 7363, An Act Concerning Public Oversight Of Hospitals Or Corporations
Receiving Substantial Medicaid Funding**

My name is Pat Monahan. I am a partner in the law firm of Garfunkel, Wild & Travis, and I appreciate the opportunity to testify on behalf of the Connecticut Hospital Association (CHA) on **HB 7328, An Act Concerning Enforcement of the Charitable Purposes of Nonprofit Hospitals**, and on **HB 7363, An Act Concerning Public Oversight of Hospitals or Corporations Receiving Substantial Medicaid Funding**. CHA opposes both bills.

HB 7328 provides that “each nonprofit hospital shall act to accomplish its charitable purpose and shall use its charitable funds in a manner consistent with its charitable purpose.” The bill then references certain tools at the Attorney General’s disposal to investigate and enforce hospitals’ compliance with this standard, including notifying tax assessors if the Attorney General “determines that the nonprofit hospital is not acting to accomplish its charitable purposes or has used its charitable funds in a manner inconsistent with its charitable purpose,” and suing hospitals to remove their boards of directors or chief administrative officer. HB 7363 takes another tack at imposing additional regulation on not-for-profit hospitals by requiring hospitals that receive in excess of fifty million dollars annually in Medicaid funding to submit detailed financial reports to the General Assembly, or in some cases to a specially constituted board of directors.

CHA opposes both bills because they would unnecessarily add layers of regulation and oversight in an area where extensive regulation and oversight already exists, subject not-for-profit hospitals to a vague and untested standard regarding tax-exempt status determinations that ignores and confuses longstanding Connecticut law and policy regarding such determinations, and divert valuable hospital resources away from hospitals’ primary mission of taking care of patients.

Connecticut not-for-profit hospitals are subject to extensive government oversight, regulation and investigation from numerous state and federal regulatory and enforcement agencies. The Office of the Attorney General already has jurisdiction over not-for-profit hospitals as recipients of charitable funds, and, as has been evident in recent years, the Attorney General’s Office already possesses and exercises sweeping authority to investigate alleged misuses of funds or other inappropriate actions pursuant to its broad statutory mandate. The Department of Public Health, Office of Health Care Access, and the Department of Social Services (as overseer of the

Medicaid system), also receive extensive and detailed financial information from each hospital on a regular basis. On a federal level, there are extensive filing and reporting requirements to the Internal Revenue Service, the Department of Health and Human Services, and the Centers for Medicare and Medicaid Services. Further, given their expansive investigative authority, each of these state and federal agencies have the ability to review practically any information relating to the financial or governance activities of each hospital.

In addition to being subject to comprehensive regulation and oversight, not-for-profit hospitals in Connecticut are subject to laws governing non-stock corporations, which specifically require hospital officers and board members to act in good faith and in the best interests of the organization. This statutory standard requires officers and board members to avoid inappropriate and unreasonable self-interests, and the officers, board members and employees of tax-exempt hospitals are prohibited by statute from receiving any profit other than that which is reasonable.

HB 7328 is also flawed because of its erroneous implication that if any act of a hospital can be construed as inconsistent with accomplishing its charitable purpose, then the hospital must be doing something inappropriate or at odds with its tax-exempt status. This punitive new standard ignores and confuses well-established law and policy for determinations of tax-exempt status. Under current law, the determination of property tax exemption for not-for-profit hospitals focuses on whether the property for which the exemption is sought is being used for a hospital purpose, and not on the more narrow focus of whether each action of a hospital is “charitable”. Hospitals, in addition to their charitable activities, and in order to sustain their ability to provide patients with access to care all the time, improve the quality of care, and lessen the burden on government in taking care of those who cannot afford to pay for their own healthcare, necessarily engage in other legitimate business activities, any number of which might not be construed as “charitable,” but which are in furtherance of the hospital’s mission to function and serve as a hospital. The provisions of HB 7328 would turn this longstanding principle on its head, shifting the focus of the property tax exemption analysis from a hospital’s use of property to, instead, a review of every business and management decision of the hospital.

There is no need to alter the existing standard relating to determining not-for-profit hospitals’ tax-exempt status. In addition to the Attorney General’s existing powers and the extensive state and federal regulatory oversight of hospitals, there is established law and process by which local assessors make tax-exempt determinations regarding Connecticut’s not-for-profit hospitals. In addition, all of Connecticut’s not-for-profit hospitals meet the rigorous standards and conditions of the federal tax code, and must continue to do so to maintain tax-exempt status under Section 501(c)(3).

In short, HB 7328 and HB 7363 would subject hospitals to additional regulatory burdens that are unnecessary, causing hospitals to divert more money and resources away from patient care and ongoing charitable activities to defending virtually every management and business decision to constantly protect against challenges to their tax-exempt status.

CHA urges you to reject these bills.

For additional information, contact CHA Government Relations at (203) 294-7310.