CONNECTICUT HOSPITAL ASSOCIATION

TESTIMONY OF
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VICE PRESIDENT, GOVERNMENT RELATIONS
CONNECTICUT HOSPITAL ASSOCIATION
BEFORE THE
INSURANCE AND REAL ESTATE, HUMAN SERVICES,
AND PUBLIC HEALTH COMMITTEES
Monday, March 2, 2009

SB 1045, An Act Concerning Responsibility For Hospital "Never" Events

Good afternoon. My name is Jim Iacobellis and I am the Vice President of Government Relations, of the Connecticut Hospital Association (CHA). With me today is Dr. Brian Filippo, who is the Vice President, Quality and Patient Safety at CHA. CHA appreciates the opportunity to testify on **SB 1045, An Act Concerning Responsibility For Hospital "Never" Events**. SB 1045 focuses on the National Quality Forum (NQF) list of serious reportable events, so called "never" events. The bill seeks to make all "never" events no-pay events for insurers and patients. CHA urges the Committee not to take action on SB 1045 as the bill is unnecessary due to the recent changes of the Medicare program, last week's passage of the HB 6602, An Act Concerning Deficit Mitigation Measures For The Fiscal Year Ending June 30, 2009, by the actions of commercial payers and by the establishment of a state-wide policy by the Board of the Connecticut Hospital Association.

CHA testified last year on a bill similar to SB 1045. During last year's testimony before the Insurance and Real Estate Committee we urged the Committee not to take action as there was tremendous activity on the federal level and between hospitals and insurers. At that time we requested the Committee provide Medicare and private insurers time to complete their efforts that were already well underway, to create billing requirements and systems that do not allow hospitals to be paid for preventable medical errors or for addition care caused by these errors.

Today we are able to favorably report that Medicare and private insurers have systems that are up and running to keep hospitals from being paid for such errors. Specifically, Medicare has implemented a no-pay events system through the inpatient prospective payment system; and all of the major managed care plans and organizations have established, or are in the stages of finalizing, contractual arrangements that create no-pay rules with hospitals.

The missing piece of the puzzle was Medicaid, until just this week. Now, Section 8 of the Deficit Mitigation bill (HB 6602) instructs the Department of Social Services (DSS) to implement a no-pay system in the state Medicaid plan based on the Medicare criteria for no-pay events.

We are able to report that hospitals are following a CHA policy, adopted by CHA's Board of Trustees in March 2008, which states when an error resulting in significant harm to a patient occurs, information about the error will be quickly and openly communicated to patients and their families, and hospitals will not expect payment for care if the error was reasonably preventable, within the hospital's control, and the result of a mistake made by the hospital.

Additionally, CHA and Connecticut's hospitals support the concept of prohibiting facilities from billing for medical errors that are within the facility's control, preventable, and the result of a mistake by the facility. But the NQF list is – simply – the wrong list to use because it was not designed to prevent hospitals and surgical centers for billing for mistakes that they make. The NQF list was created with the input of providers and numerous experts to identify areas where quality improvement resources might be better directed within a facility. The list does not determine whether an event was preventable or within a facility's control. The list works well for its intended purpose to improve care and in Connecticut, pursuant 19a-127n, the list is the foundation of our state's adverse event reporting system.

In short, SB 1045 is not necessary, and would likely cause disruption and confusion in the ongoing systems that have already addressed this issue through scientific and other expert means. In addition to being unnecessary, and in many ways redundant, HB 1045 would result in significant added administrative costs for implementation, including costs to the state, in large part because the NQF list is not designed for this purpose, would be very difficult to use, and would require extensive regulations.

We urge you to reject SB 1045 and allow processes already in place, which have created fair "no-pay" criteria for medical errors, to continue to function.

Thank you for consideration of our position. We would be happy to answer any questions.

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