CONNECTICUT HOSPITAL ASSOCIATION

TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
JUDICIARY COMMITTEE
Wednesday, March 24, 2010

SB 222, An Act Concerning Complaints Pending In The Department Of Public Health Against Physicians And Certain Other Health Care Providers And Establishing A Mediation Program For Medical Malpractice Actions

The Connecticut Hospital Association (CHA) appreciates the opportunity to submit testimony concerning **SB 222, An Act Concerning Complaints Pending In The Department Of Public Health Against Physicians And Certain Other Health Care Providers And Establishing A Mediation Program For Medical Malpractice Actions**. CHA has significant concerns about Sections 1 and 2 of this bill as written, and supports Section 3.

Sections 1 and 2 of SB 222 seek to alter the current role of complainants in licensure board or Department of Public Health (DPH) investigations. DPH devotes significant resources to the oversight of individual healthcare practitioners' licenses. There are elaborate and continuous processes in place to assess professional competence that allow DPH to protect the safety of the public at large. These administrative processes are, by necessity, designed to afford due process to licensees, and must comply with all requirements of the Uniform Administrative Procedure Act, including the requirement that the proceedings must be fair and impartial. When DPH or a related professional board is focused on whether a licensee has met applicable statutory and regulatory obligations, it is not acting as the arbiter of civil disputes between patients and practitioners – that system is, instead, our civil justice system. The task is to determine whether the practitioner is competent and safe to practice.

DPH investigates each complaint it receives. Complainants are entitled to provide DPH with whatever information they wish. Complainants are also notified of the results of an investigation, and are provided with file materials if a finding is made against the practitioner. If complainants are confused about how to provide information to the agency, and if DPH believes it would be helpful, CHA supports creating a specific submission process or updated forms that would assist complainants in presenting information to DPH. But the licensure review process cannot be made into a pre-suit fact finding mechanism for potential plaintiffs. Administrative licensure review and investigation must remain a fair and impartial process. For these reasons, CHA opposes Section 1 and 2 of SB 222.

Section 3 of SB 222 is unrelated to Sections 1 and 2, and would require mandatory mediation in all medical liability cases. CHA supports this measure because it would reduce the length of malpractice cases overall, provide a mechanism for filtering out frivolous or unfounded cases, streamline discovery and other legal issues, and would promote quicker disposition of cases. The backlog of medical liability cases favors no one. Section 3 of SB 222 represents a rare consensus between plaintiff and defense interests that there may be common ground for handling at least some of the medical liability cases that are filed. CHA supports the creation of mandatory non-binding mediation as a fair and balanced way to lighten the load on an extremely overburdened system.

Thank you for your consideration of our position.

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