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The Connecticut Association of Not-for-profit Providers For the Aging

Testimony to the Human Services Committee

- **Senate Bill 1147, An Act Concerning Patient Consent for the Exchange of Electronic Health Information**
- **Senate Bill 1161, An Act Concerning the Department of Social Services' Implementation Policies and Procedures Relating to the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act**
- **House Bill 6553, An Act Concerning Documentation of Licensing for Workers Hired to Replace Striking or Locked-Out Health Care Employees**

**Submitted by Mag Morelli, CANPFA President
March 17, 2011**

Good afternoon Rep. Tercyak, Sen. Musto and members of the Committee. My name is Mag Morelli and I am the President of the Connecticut Association of Not-for-profit Providers for the Aging (CANPFA), a membership organization representing over 130 mission-driven and not-for-profit provider organizations serving elderly and disabled individuals across the continuum of care including nursing homes, residential care homes, housing for the elderly, continuing care retirement communities, adult day centers, home care and assisted living agencies. CANPFA members are sponsored by religious, fraternal, community, and municipal organizations that are committed to providing quality care and services to their residents and clients. Our member organizations, many of which have served their communities for generations, are dedicated to providing the services that people need, when they need them, in the place they call home.

On behalf of CANPFA I would like to submit the following testimony.

In opposition to Senate Bill 1147, An Act Concerning Patient Consent for the Exchange of Electronic Health Information

CANPFA strongly opposes this bill because it defeats the important federal and state policy goal of creating seamless, interoperable electronic records. The bill as written would require that any health care institution utilizing electronic medical records obtain written consent from the patient or the patient's authorized representative before releasing any records. Its stated purpose is to protect privacy by requiring that a patient "opt in" to the exchange electronic health records. There is no exception for the exchange of records for treatment, payment and health care operations, as there is in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules.

Requiring consent any time a health care provider sends an electronic record to another health care provider for a patient's treatment, or to the patient's health insurer to get paid, defeats the important federal and state policy goal of creating seamless, interoperable electronic records.

HIPAA contains extensive requirements aimed at protecting the privacy and security of protected health information. Under HIPAA privacy regulations, "covered entities," which includes most health care providers can transmit protective health information electronically for purposes of treatment, payment or health care operations. Detailed federal regulations require that providers institute security measures to safeguard protected health information. In addition, these regulations include provisions addressing individual rights to access and request amendments to medical records, rights to an accounting of disclosures and rights to restrict use and disclosure of protected health information. In 2009, Congress amended HIPAA to institute further protections, including a process for reporting and mitigating breaches of PHI, and to enhance enforcement of HIPAA's requirements. Given HIPAA's extensive and comprehensive protections, this measure is unnecessary and counter-productive.

It is absolutely imperative that we move to an efficient and effective use of electronic health records that are interpretable through out the entire health care system. This bill goes against that principle and we urge the Committee to oppose it.

Senate Bill 1161, An Act Concerning the Department of Social Services' Implementation Policies and Procedures Relating to the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act

CANPFA would like to raise a general concern with the broad scope of this proposal. This bill is very general as it permits the Department of Social Services to implement policies and procedures to carry out any and all mandatory or permissive provisions of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act while they are in the process of adopting regulations. We know from experience that the "intent to adopt regulations" does not mean that such regulations are imminent and that it actually can take months and even years before the regulations are finalized. In the meantime, the policies and procedures developed solely by the Department without any public input are indefinitely in place. We therefore suggest that the Committee be very cautious in granting such a broad authority.

House Bill 6553, An Act Concerning Documentation of Licensing for Workers Hired to Replace Striking or Locked-Out Health Care Employees

CANPFA does not support this bill as proposed. Currently, in situations as described in the bill, skilled nursing facilities must verify licensure/certification of

workers hired during a strike and the facilities must make such verifying documentation available to the Department of Public Health. A new requirement that such documentation be provided not only to that Department of Public Health, but also to an additional state agency (the Department of Social Services) in advance seems unnecessary. We see no additional public safety advantage to providing this documentation to this additional state agency and therefore do not support adding this additional burden and cost to both the skilled nursing facilities and the to the state.

Thank you and I would be happy to answer any questions.

Mag Morelli, President

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