TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
INSURANCE AND REAL ESTATE COMMITTEE
Tuesday, February 26, 2024

HB 5054, An Act Addressing Health Care Affordability

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **HB 5054, An Act Addressing Health Care Affordability.** CHA opposes Section 4 (Cost Growth Benchmark Oversight Commission), Section 5 (performance improvement plans), and Section 6 (subpoena authority) of the bill.

Connecticut hospitals are critical to their communities. They are confronting the challenges posed by a post-pandemic healthcare system with an exemplary healthcare workforce that continues to provide outstanding care. But challenges remain. Hospitals are treating sicker patients, it continues to be challenging to hire and retain staff, and the financial headwinds are grave. Through it all, hospitals are steadfast, providing high-quality 24-hour care for everyone who walks through their doors, focusing on making Connecticut's healthcare system more equitable, and driving world-class innovation right here in Connecticut.

The healthcare cost growth benchmarking process was created by executive order in 2020, and the legislature codified the program in 2022. This action put the legislature's stamp on the program, and it is important that the legislature continues to provide guidance to help shape the program and the conclusions that drive policy proposals.

Improving affordability, sustaining exceptional patient care, and improving access to healthcare services are at the core of our collective work, and there is a better way to achieve these objectives. CHA hopes to continue the partnership with the state legislature to take a holistic approach to supporting exceptional care delivery, comprehensively addressing payment for healthcare services, reducing administrative burdens that increase costs, and pursuing innovations, particularly in Medicaid, that support community health.

Weaknesses in Cost Growth Benchmark Implementation

Before any amendments are made to the existing cost growth benchmark statute or additional authorities are granted to OHS, the real and material deficiencies in the implementation of the cost growth benchmarking process should be addressed.

Hospitals and health systems have been willing partners since the inception of the cost growth benchmark process in early 2020. Representatives from the sector have participated in the Stakeholder Advisory Board, the Healthcare Benchmark Initiative Steering Committee, the Healthcare Benchmark Initiative Data Analytics Work Group, and a number of forums and hearings. CHA has also commented to the Office in writing, offering views on the calculation of spending targets , the impact of COVID-19 (October 2020), the flaws in the data process (March 2021), and efforts to address historic levels of inflation (November 2022).

The advice of hospitals and health systems has been consistent and, unfortunately, ignored. OHS should take a broader view than its current, narrow focus on commercial healthcare spending. A successful process must include how Medicaid underpayment plays a role in driving commercial payment rates (according to OHS, Medicaid currently pays healthcare providers 62 cents for every dollar of care provided), how historic levels of inflation have driven historic increases in hospital and health system expenses, and how transparent and accurate data must be a cornerstone of the program's implementation.

A Broken Data Process

OHS has yet to implement a transparent data process for accurately assessing performance against the benchmark. The best evidence of this deficiency was provided by OHS itself at the June 28, 2023 Cost Growth Benchmark Public Hearing where the OHS executive director acknowledged that, related to the data used to assess advanced network performance against the benchmark, "We learned that we've got some more work to do."

This is corroborated by what we have heard from hospital systems with affiliated advanced networks. As described, the data provided to OHS by the health insurance companies does not match the experience of the advanced networks. There is no transparency regarding how patient spending is attributed to individual advanced networks, and OHS provides little assistance to adjudicate the significant data discrepancies. The payer data used to assess benchmark attainment and provided to the advanced networks by OHS in order to verify its accuracy are not detailed enough for the advanced networks to reasonably attempt to verify its accuracy.

OHS seems to acknowledge these shortcomings in its October 2023 report to the legislature, stating, "OHS believes that agreement on the validity and accuracy of the benchmark data is critical and will continue to work with stakeholders to achieve consensus on the measures used to establish performance against the benchmark."

If the intent is for the cost growth benchmarking process to help guide healthcare policy in the state, then the bare minimum standard for that process must be the use of accurate data.

Data Process Should be Fixed Before Governor's Proposals Advance

Despite the weaknesses in OHS's implementation process and the flawed data on which the program relies, the Governor's bill recommends implementing penalties for non-attainment of the annual benchmark, creating a new commission to oversee benchmark implementation, and expanding authority to conduct cost and market impact reviews. **None of these proposals should advance until OHS has corrected its data process. It would be unwise to cede more control over Connecticut's healthcare delivery system to a process that is using flawed data to make recommendations and decisions**.

Section 4: Cost Growth Benchmark Oversight Commission

The legislation contemplates the creation of a 13-member commission entirely composed of members who have no direct role in providing care to patients. In fact, the statute explicitly prevents the participation of providers of patient care.

The commission would be duplicative to the Healthcare Benchmark Initiative Steering Committee (Steering Committee), which meets monthly to advise OHS on the direction of the benchmark. Steering Committee participants represent the array of healthcare stakeholders, including patient representatives, employer representatives, state government representatives, healthcare policy experts, and provider representatives.

As proposed, the construct of the Commission should be rejected. At the bare minimum, providers who actually deliver care to patients should be included as members of the Commission.

Section 5: Performance Improvement Plans and Cost and Market Impact Reviews

As described earlier and as OHS acknowledges, there is "more work to do" when it comes to the data process used to assess benchmark performance. **It is thus entirely premature to provide OHS with the authority to impose performance improvement plans (PIP) on entities that don't meet the benchmark,** and it is inappropriate to provide OHS with authority to impose civil penalties associated with PIP compliance standards.

Given OHS's inability over the last four years to develop a data process that is transparent and reliable, to take action on this proposal the legislature would have to rely on the *hope* that OHS can develop the capability to accurately assess performance against the benchmark. **From the perspective of hospitals and health systems that have been close to this process, such hope would be misplaced, and this proposal should be rejected.**

This section also provides OHS with the broad authority to conduct a cost and market impact review of any healthcare entity that OHS finds, at its discretion, is a contributor to healthcare spending growth in the state. **This additional authority should not be granted to OHS until the agency improves its existing management of the cost growth benchmark process.**

Section 6: Subpoena Power

As described earlier, hospitals and health systems have been interested and willing partners in this work. The request for subpoena power, not just for testimony but for records, papers, and documents, is a broad overreach and overreaction to one pharmaceutical company declining to participate in OHS's June 2023 cost growth benchmark hearing. To provide OHS with this blanket, far-reaching authority is not necessary and creates an adversarial, invasive relationship where none needs to exist. Beyond this one instance by a pharmaceutical company of noncooperation, it is unclear why such dramatic and broad authority is necessary.

CHA appreciates the Committee's ongoing leadership and partnership in work to improve healthcare delivery in Connecticut. As described, these proposals should be rejected, and CHA looks forward to working with this Committee to pursue a more positive vision for how to improve healthcare in Connecticut through supporting access, improving equity, and lowering costs.

Thank you for your consideration of our position. For additional information, contact CHA Government Relations at (203) 294-7310.