



**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
PUBLIC HEALTH COMMITTEE
Wednesday, March 6, 2024**

**HB 5200, An Act Concerning Health Care Accessibility For
Persons With A Disability**

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **HB 5200, An Act Concerning Health Care Accessibility For Persons With A Disability**.

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.

For patients with a disability, it can be a frustrating and difficult experience to receive certain medical test and examinations that for many patients feel routine. The workarounds can feel burdensome to the patient, making the medical experience feel daunting. Hospitals understand this and work hard to make sure that all patients can receive the care they need and that potential barriers to care are addressed.

There is a path to making the care experience better for individuals with a disability. As this Committee is aware, there is a significant rulemaking process occurring right now at the federal level that will align a multitude of guidelines, rules, and laws relating to access to healthcare for persons with disabilities. Those federal changes will reset the entire landscape for healthcare access specific to persons with disabilities. This federal undertaking, which is complex, will be the most significant modernization of rules pertaining to healthcare for persons with disabilities in decades.

Modernizing the federal rules is a significant but important undertaking that impacts not just routine healthcare but will require substantial spending, building renovations, changes to staffing and staff training, and myriad administrative and regulatory approvals. Because these federal rules are not final, and there are many open questions that the federal government is

working through on topics as diverse as scoping and thresholds, timelines, and applicability of the rules, it would be premature to adopt as state law the proposed federal rules before they are finalized.

Realistically, the federal rules have a glide path that takes years to achieve because the federal regulatory changes will, among other things: affect medical equipment manufacturing and the availability of medical equipment through interstate commerce (exclusively a federal law arena); require reworking building spaces, potentially canceling leases for built out space and changing existing planning; accelerate the replacement of imaging equipment; prompt an unusually high number of Certificate of Need (CON) applications; and necessitate modifying already approved CONs in order to comply with the federal law due to change of services, locations, or project plans.

CHA continues to advocate that Connecticut should not go it alone but should wait for the federal rules to be finalized before moving ahead. It is unrealistic and will be extremely costly to do otherwise.

However, there is work the state can do now to put the pieces in place that will best assure readiness with the federal rules once they are final. We can prepare to hit the ground running by tackling various barriers to entry that need to be assessed and adjusted before implementation. Taking those proactive steps undoubtedly will foster better, faster adoption of the federal rules in Connecticut once finalized. Failure to do this critical pre-work risks a prolonged implementation timeline, creates added risk of declaratory rulings and court intervention as providers seek clarity on the conflicts between state and federal laws, and creates unnecessary costs to the entire healthcare system across the continuum of providers.

The best chance for success requires immediate changes to several state laws and regulations. Additionally, the state should expeditiously identify solutions to assist providers with the significant costs that the federal rules will engender. This undertaking will cost millions of dollars in hard costs that cannot be recouped through traditional federal reimbursement.

CHA suggests the following changes to state law, both to avoid state red tape getting in the way of patient access and also to allow Connecticut to implement the changes and improve access as soon as feasible:

Certificate of Need (CON)

The Office of Health Strategy (OHS) is unable to process CON applications in a timely manner. The process routinely runs months, often years, over the time it should take (with no recognized benefit to patients or communities) as OHS struggles with its own deficits in staffing and resources. The huge volume of applications that will be filed as healthcare providers move ahead to retrofit, renovate, change locations, lease new space, purchase new imaging equipment, and modify prior CON agreements (etc.) will almost certainly exacerbate the problems with CON processes and further overwhelm OHS, thus delaying access for the patient population this bill seeks to assist.

We urge the legislature to create a corridor to success by mandating in law that OHS will presumptively grant CON approval – without unnecessary cost, fees, or administrative red tape – when the purpose of the CON application is related to a provider’s plan to further access for persons with disabilities and the plan is consistent with (1) technical standards for accessibility developed by the federal Architectural and Transportation Barriers Compliance Board in accordance with Section 4203 of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended from time to time, for medical diagnostic equipment, or (2) other federal law, guidance, rules, or regulations as those are finalized or clarified.

Building and Plan Review

The Department of Public Health (DPH) has many oversight obligations relating to facilities operations, building and renovation, and planning (these are in addition to OHS oversight for CON). We urge the legislature to mandate in law that DPH will create a streamlined process to approve a facility’s efforts to build or modify spaces to improve access consistent with (1) technical standards for accessibility developed by the federal Architectural and Transportation Barriers Compliance Board in accordance with Section 4203 of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended from time to time, for medical diagnostic equipment, or (2) other federal law, guidance, rules, or regulations as those are finalized or clarified.

Such a statutory change should expressly require DPH to accept proposals and plans that comply with either the current or most recent prior version of the Facilities Guidelines Institute (FGI) standards at the option of the facility.

Costs, Funding, and Community Impact

The costs of achieving the access that is expected to be required under federal law will have a significantly large price tag that will need to be absorbed over multiple years, which is a major reason why accelerating the timeline to deviate from the federal glidepath is unwise. We urge the state to plan for the additional millions of dollars of impact on healthcare across Connecticut by seeking ways to assist providers financially; ensuring that the added costs are not held against providers when the state is reviewing or calculating the cost growth in healthcare; and planning for an influx in reduced primary care and other services if the changes prompt closures of practitioner offices (which will force facilities to absorb the higher demand).

Administrative Preparation

We urge the Committee to prompt immediate preparation for the federal law changes by encouraging providers and the state to assess and create plans to achieve success as soon as feasible after the federal rules are finalized. This could include:

- Encouraging providers to assess and document what would be needed to ensure their services and care locations meet the evolving federal rules (with best estimates until scoping and threshold requirements are finalized), including provider estimates of costs that would be incurred for compliance initially and then annually

- Creating a state grant program that providers may access to purchase new equipment that meets accessibility standards
- Urging providers to immediately begin to seek assurances from vendors that equipment the provider seeks to purchase meets the technical standards for accessibility developed by the federal Architectural and Transportation Barriers Compliance Board in accordance with Section 4203 of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended from time to time, for medical diagnostic equipment or any superseding federal law, guidance, rules, or regulations affecting those standards
- Requiring OHS and DPH to prepare work plans to streamline their approval processes for CON and other approvals to foster implementation. OHS should also clarify that costs incurred for compliance with access requirements are not to be used to disadvantage providers when calculating providers' cost growth benchmarks
- Having the state inventory its own equipment and locations and provide a report no later than October 1, 2024 that estimates the costs of compliance with the technical standards for accessibility developed by the federal Architectural and Transportation Barriers Compliance Board in accordance with Section 4203 of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended from time to time, for medical diagnostic equipment or any superseding federal law, guidance, rules, or regulations affecting those standards

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