TESTIMONY
OF
THE CONNECTICUT HOSPITAL ASSOCIATION
HOUSE SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS, AND INTERNATIONAL RELATIONS
July 30, 2002

Homeland Security: Keeping First Responders First

The Connecticut Hospital Association (CHA) appreciates the opportunity to submit testimony regarding "Homeland Security: Keeping First Responders First." CHA and our member institutions support the Subcommittee's efforts to further homeland security by improving the ability of the healthcare system to respond to crises and to rapidly detect and respond to bioterrorist activity.

We appreciate the Subcommittee's recognition that hospitals are first responders. Many patients intercepted by other first responders, such as police, firefighters and ambulance personnel, are immediately transported to hospitals and additional patients arrive on their own. Some of the current emergency preparedness programs fail to clearly recognize hospitals as first responders, yet hospitals require the same assistance as other first responders. We respectfully request that any legislation devoting resources to first responders expressly include hospitals.

In their daily operations, hospitals across the country are facing severe financial challenges and acute shortages of healthcare personnel. Hospitals are willing, but often not financially able, to expand their disaster preparedness activities. Although emergency preparedness is a priority, hospitals do not have the financial resources they need to effectively prepare to respond to the vast array of crises they may now face. Hospitals and other first responders need additional financial resources in order to improve preparedness in several areas, including the following:

- Training and education of healthcare professionals, including training in decontamination and the detection of bioterrorism
- Upgrade of communications equipment and development of interoperable, redundant systems of communication
- Acquisition of equipment, including personal protective equipment and decontamination equipment
- Development, implementation and evaluation of large scale drills
- Facility modifications to provide additional surge capacity or enhanced decontamination or isolation capabilities

Connecticut hospitals have enhanced their emergency preparedness activities since September 11, 2001, but we still have a long way to go. We are fortunate that the

Connecticut Department of Public Health recognizes the important role hospitals play in emergency preparedness and has partnered with Connecticut hospitals and CHA to improve hospital preparedness. Not all states have taken this approach. We believe that it is absolutely critical that the Subcommittee specifically devote resources to hospitals in order to ensure that frontline healthcare professionals are ready to respond in times of crisis.

In addition to devoting financial resources, the Subcommittee can help hospitals and healthcare personnel with emergency preparedness by improving communication with hospitals during an event and by making certain legislative changes to provide hospitals with the flexibility they need in an emergency.

Effective communication is essential both to detect subtle terrorist activity, such as an isolated anthrax case, and to facilitate effective response to a mass casualty situation. In conjunction with the Department of Public Health, CHA has set up an emergency communications center to facilitate communication between hospitals and state agencies in the event of a disaster. Although this system allows us to communicate rapidly with all of the acute care hospitals in the state, the system cannot function effectively if we do not have reliable information. In designing systems for homeland security, we encourage the Subcommittee to develop clear lines of communication between federal and state agencies, including state health departments. Hospitals will be able to respond more effectively if they have accurate information about an event.

The anthrax incidents and the threat of additional bioterrorist activity highlight the need for ongoing communication between hospitals and state agencies about trends in patient symptoms. Ongoing syndromic surveillance of emergency departments, in which health departments receive timely information from emergency departments about the symptoms of every patient, appears to be a promising method of detecting subtle terrorist activity, but development of such a system presents logistical challenges. Hospital emergency departments across the country already are overcrowded and the development of syndromic surveillance systems must not place any additional burdens on emergency department staff. In order to be effective, such systems also must ensure that health departments are able to rapidly analyze the information and report it back to hospitals so the hospitals can use the information in evaluating future patients. In Connecticut, we are fortunate that the Connecticut Department of Public Health, in conjunction with CHA, is evaluating the utility of such a system and identifying the barriers to implementation. Should such a system prove useful, hospitals and state health departments will need additional resources to effectively implement the system.

In the event of a crisis, hospitals will need to react differently than they do during day-to-day operations. Certain federal and state laws, if strictly applied, would prevent hospitals from doing things that are desirable and, in some cases, potentially lifesaving. For example, the federal Emergency Medical Treatment and Labor Act (EMTALA) requires hospitals to examine each and every patient that comes to the emergency room and to provide stabilizing treatment if the patient has an emergency medical condition. In a mass casualty situation or event requiring decontamination of patients, hospitals need to

have the flexibility to refer patients that are not seriously injured to other locations, such as a clinic or a physician's office, so that hospitals will be able to treat greater numbers of seriously injured patients. Referral of emergency department patients to another location before they are examined and evaluated currently would be a violation of EMTALA. The Centers for Medicare and Medicaid Services clarified in November, 2001 that it is not a violation of EMTALA for a hospital to refer patients who have potentially been exposed to a bioterrorist agent, such as anthrax, to another hospital for screening if the community disaster plan requires such referral. This clarification, however, does not permit other types of referrals and should be expanded. EMTALA also contains detailed requirements regarding the reasons for transfer of patients and documentation of consent, but these documentation requirements are not realistic in the context of a crisis situation. We respectfully suggest that the Subcommittee create an exemption from EMTALA requirements during significant emergency events.

We also suggest that the Subcommittee create an exemption from the privacy requirements of the Health Insurance Portability and Accountability Act (HIPAA) during a crisis. Once the privacy requirements become effective in April 2003, hospitals must give each patient the right to choose not to be included in the hospital's directory of patients. In the event of a disaster, this restriction needs to be waived. In the aftermath of September 11, hospitals in the New York area voluntarily posted patient lists on websites and other public locations in order to help frantic families find their loved ones. What could otherwise be considered a breach of confidentiality should be encouraged in this situation and a specific exception for disasters should be added to HIPAA.

EMTALA and HIPAA are two clear examples of legal barriers that could impede hospital operations during an emergency, but there are numerous other examples. We respectfully suggest that the Subcommittee enact legislation that gives hospitals the flexibility they need during a crisis to share staff, equipment, pharmaceuticals and other items. For example, a national database of licensed healthcare practitioners and legislation that gives hospitals immunity for accepting assistance from individuals who are not on the medical staff would promote sharing of staff. Hospitals and individual healthcare professionals must be protected from liability for their good faith efforts during a crisis. Heroes shouldn't need lawyers and the Subcommittee has the power to prevent fear of liability from affecting emergency decisions.

We are pleased that the Subcommittee intends to keep first responders first as it continues to strengthen our homeland security. No matter what the nature of the event, hospitals and other first responders will always be there. Emergency preparedness of hospitals and other first responders must remain a priority both because of their ability to detect bioterrorist activity and their critical role in mitigating the effects of a disaster.

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