CHA CONNECTICUT HOSPITAL ASSOCIATION

TESTIMONY OF
THE CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
PUBLIC HEALTH COMMITTEE
Friday, March 15, 2013

HB 6521, An Act Concerning Medical Orders For Life-Sustaining Treatment

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **HB 6521, An Act Concerning Medical Orders For Life-Sustaining Treatment**. While CHA supports the bill, we also wish to address some concerns regarding its implementation.

Before outlining our concerns, it's important to detail the critical role hospitals play in the health and quality of life of our communities. Connecticut hospitals are more than facts and figures, and dollars and cents. Hospitals, at their core, are all about people. All of our lives have, in some way, been touched by a hospital: through the birth of a child, a life saved by prompt action in an emergency room, or the compassionate end-of-life care for someone we love. Or perhaps our son, daughter, husband, wife, or friend works for, or is a volunteer at, a Connecticut hospital.

Hospitals provide care to all people regardless of their ability to pay. Connecticut hospitals are the ultimate safety net providers, and their doors are always open.

Every day, healthcare professionals in hospitals see the consequences and health implications for individuals and families who lack access to care and coverage. Emergency departments are filled with individuals who cannot find a physician to care for them because they are uninsured or underinsured – or they are Medicaid beneficiaries and few physicians will accept the low rates paid by Medicaid. Throughout Connecticut, our emergency rooms are treating both those who have delayed seeking treatment because of inadequate or no coverage, and those who have no other place to receive care.

As frontline caregivers, Connecticut hospitals are absolutely committed to initiatives that improve access to safe, high-quality care and expand access to coverage. Our hospitals are dedicated to working with state agencies and others to clarify the options available to patients, and improving communications between patients and their healthcare providers on end-of-life care and decision making.

One such initiative that is worthy of consideration involves the use of medical orders for life sustaining treatment (MOLST). MOLST provides a framework for healthcare providers to put in place orders that ensure seriously ill patients with life-limiting illnesses or advanced frailty receive the treatment they want and avoid treatments they do not want.

We recognize that communicating with patients is a critically important aspect of providing appropriate healthcare. When patients are unable to communicate their preferences for the complex array of medical interventions available, they may be at risk for not receiving desired treatments, or for receiving treatments that would be beyond what they would choose if they were able to participate in a thoughtful discussion of options. MOLST is intended to facilitate a discussion between a patient and a trained healthcare provider that is focused on the patient's needs, and documented in the MOLST order.

HB 6521 will empower the Commissioner of Public Health to authorize the establishment of a voluntary MOLST pilot program in Connecticut, evaluate the MOLST framework, and gather information and experiences related to the potential challenges of implementing MOLST in our state.

We have concerns regarding the implementation of the pilot program. First, we recommend that the Department of Public Health (DPH) strive for transparency in the execution of the pilot program, acknowledging the need to collaborate with healthcare providers in the establishment of forms, policies, and procedures. DPH should also recognize the need to develop education and training programs for those healthcare providers who volunteer to participate in the program, and conduct communication and education programs to inform persons residing within the designated geographic areas about MOLST. DPH should also recommend evaluation methodologies for the pilot program.

Second, we believe it is essential that DPH establish clarity with respect to how the pilot program intersects with existing law, including constitutional, judicial, and statutory constraints. Specifically, those planning for the MOLST pilot would need to carefully consider, at a minimum, the rights and protections provided in the federal Patient Self-Determination Act, the Medicare Conditions of Participation for hospitals, Chapters 7C and 368w of the Connecticut General Statutes, and the case law that clarifies the process and methods for individuals to make their own healthcare decisions, or to delegate those decisions to others.

Third, we specifically request that the Commissioner hold a public hearing prior to implementing the policies and procedures that will govern the MOLST pilot program, and print notice of intent to adopt regulations in the Connecticut Law Journal no later than 20 days after the date of implementation.

Fourth, we respectfully ask that you include physician assistants, along with physicians and advanced practice registered nurses, in the list of healthcare providers who may be authorized to sign a MOLST order.

Finally, since the overwhelming consensus of all involved is to provide individuals as much self-determination as reasonably possible, and for healthcare providers to be able to act on those wishes, CHA urges you to restore the ability for individuals to appoint a power of attorney for healthcare decisions, including through the statutory short form power of attorney appointment. The legislature took this right away in 2006 in a well-intentioned effort to direct individuals to use more elaborate and detailed living will-type documents. Not being able to rely on healthcare power of attorney forms has reduced patient rights, not improved them.

A patient should be able to rely on a duly executed power of attorney to designate someone, typically a family member or close personal friend, to make healthcare decisions in the event the patient becomes incapable of making such decisions. Connecticut's restriction on power of attorney is out of step with the recognized importance of putting patients' choices first. It is also contrary to federal regulations and guidance, which frequently references power of attorney as an appropriate legal means of assigning rights to make healthcare decisions.

CHA would be happy to work with the Committee to assist in restoring this important legal method of appointing a surrogate decision maker.

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