



*TESTIMONY PRESENTED TO THE PUBLIC HEALTH COMMITTEE  
March 6, 2024*

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Supporting SB 9 AN ACT PROMOTING HOSPITAL FINANCIAL STABILITY.

Regarding HB 5319 AN ACT REQUIRING A PLAN CONCERNING PRIVATE EQUITY FIRMS ACQUIRING OR HOLDING AN OWNERSHIP INTEREST IN HEALTH CARE FACILITIES.

Regarding HB 5320 AN ACT CONCERNING HOSPITAL FINANCIAL ASSISTANCE.

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Good afternoon, Senator Anwar, Representative McCarthy Vahey, Senator Kushner, Senator Marx, Representative Parker, Senator Somers, Representative Klarides-Ditria and distinguished members of the Public Health Committee. I am Deidre Gifford, Executive Director of the Office of Health Strategy (OHS), and I appreciate the opportunity to testify regarding the bills that would directly affect the core aspects of OHS's mission and the work we do. OHS's mission is to implement comprehensive data driven strategies that promote equal access to high-quality healthcare, control costs and ensure better health outcomes for the people of Connecticut.

**Testimony Supporting Governor's Bill SB 9**

This bill seeks to promote financial stability for hospitals by requiring **more frequent hospital financial reporting to OHS**, and by **addressing gaps in the Certificate of Need Program**. The bill also proposes additional enforcement authorities for the Department of Public Health which will provide them with tools to assure better quality care. My testimony focuses on the authorities and responsibilities that would be assigned to OHS.

I am pleased to offer testimony in support of the Governor's bill, An Act Promoting Hospital Financial Stability. Hospitals are integral parts of our communities and provide both preventative and lifesaving services. The stability of the hospital system as a whole is important to ensuring that the health care needs of all Connecticut residents are met. The hospital industry is currently subject to a number of market forces and population trends, which have resulted in benefits for some and significant challenges for others. These forces include horizontal and vertical provider consolidation, a shift in sites of service for certain procedures, an aging population, and the need to constrain costs while addressing overall health outcomes and equity.

During the 2023 legislative session, two community-based hospitals sought financial assistance from the state to support them in maintaining essential health services and a path to financial

viability. One for-profit system experienced a number of challenges in meeting its financial obligations.

Senate Bill 9 will close a loophole in the statutory definitions related to transfers of ownership of health care facilities and large group practices, with respect to the Certificate of Need program and strengthening hospital stability. Under the current statutes, many significant transactions involving hospital ownership are not reviewed by the state, and do not face public scrutiny. The definition of “transfer of ownership” only applies to those transactions that affect the direct ownership or control of a hospital or health entity itself. As such, when there are multiple levels of a corporate entity like grandparent companies, parent companies and a subsidiary hospital, corporate entities and holding companies can structure the transaction to avoid review of a transfer of ownership.

Section 3 of this bill would eliminate this loophole by expanding the definition of “person” to include any public company and entity and the definition of “transfer of ownership” to include a transfer of a controlling interest in any entity that possess or controls, directly or indirectly, a twenty percent (20%) interest of a health care facility, institution, or group practice. Therefore, if a holding company owns or controls at least 20% of a hospital or health care entity as described, the transfer of ownership or control of such a holding company would require review by OHS as a transfer of ownership, and would be subject to the scrutiny of cost, quality and access that other transfers of ownership receive.

Section 4 of the bill addresses specific concerning corporate practices involving subsidiary hospitals, which result in the destabilization of the hospital’s finances while avoiding regulatory review. This section would require a CON transfer of ownership review when there is:

(1) a transfer of 10% or more of assets owned by a hospital (including a transfer of real estate); or (2) when there is an issuance of dividends exceeding twenty percent (20%) of the net worth of a hospital over the course of a 3-year period.

This provision would ensure that any action that would transfer substantial assets or capital away from the hospital would be reviewed by OHS to determine if it abides by the statutory criteria for cost, quality, access and financial stability. Further, OHS would have the authority to determine whether transfer of a significant magnitude of assets of the hospital would jeopardize or substantially impair future operations of that hospital.

Section 4 of the bill also provides a phased-in approach for the expanded review of transfers of ownership in order to allow OHS time to determine the resources and staffing that would be necessary to monitor these additional transactions.

Most of the changes relating to hospital transfer of ownership would take effect October 1, 2024. The implementation of expanded transfer of ownership reviews (for example of large group practices and other health care facilities) would be delayed until 2026 to allow for a monitoring period. Currently, there is no way to know how many of these transactions occur each year and, therefore, what additional resource requirements would be necessary to accommodate the additional reviews. In order to get a clearer picture of how many transfers of ownerships (TOO)

take place regarding the large group practices and health facilities, any transfer of ownership CON applications for large group practices or non-hospital facilities would be automatically approved through December 31, 2025. This will allow OHS to track the number while minimizing the administrative burden on applicants and providing time to determine the necessary resources for OHS to manage the new applications.

In an effort to balance the additional categories of CON review with a reduction of other CON types, Section 4 also proposes removing the requirement for a CON for computed tomography (CT) scanners. A review of our database indicates that within the past three years, all applications for acquisition of CT scanners were approved with no significant concerns raised. Therefore, OHS believes that we can reduce the administrative burden on applicants and the workload on OHS with minimal additional cost to the state's health care system.

OHS understands and appreciates the need for the CON approval process to be transparent, effective and efficient. Each time OHS reviews a CON application, we evaluate the application against 13 criteria that are detailed in CGS 19a-629. In order to improve the process, Section 5 of the bill makes important modifications that will address ambiguities regarding the CON approval criteria. Section 5 also includes technical corrections to improve transparency and make the criteria more user friendly.

With respect to the approval criteria, under current statute the impacts of the application on 1) quality, 2) access and 3) cost effectiveness are currently all assessed under one single, three-part criterion. This bill would separate them into individual reviews so that applicants are not unfairly penalized for meeting some but not all 3 of the standards.

The existing criterion related to review of financial feasibility will be improved by separating it into its constituent parts to examine 1) whether the proposal harms the financial strength of the health care system in the state and region, as well as 2) whether it harms the applicant's finances in a way that would impair future operations. This addition is designed to look forward to any issues that may arise as a result of the CON request and would allow OHS to impose conditions under certain circumstances to address any related concerns.

Section 5 also updates the approval criteria to include an examination of how the applicants' actions may have contributed to the circumstances leading to the need for the CON application. A criterion is proposed to assess whether the applicant had taken actions that created the conditions leading to the needed change. For example, withholding resources, staffing or other resources that resulted in a lack of demand.

The CON process is further improved by clarifying that, in instances where a Cost Market Impact Review (CMIR) is required for a transfer of ownership, OHS may consider the associated reports and any applicant responses to the reports in their CON determination process. Currently, CMIR reports are required for transfers of ownership of hospitals and health systems that have a net patient revenue that exceeded \$1.5B in 2013, but the statute does not specifically address that OHS may consider the reports and applicant responses in its decision.

Lastly, Section 6 of the bill increases periodic hospital financial reporting to OHS of key financial indicators that may be an indication of such distress in order to ensure that the state

and the public have adequate insights and warning of any potential hospital distress. This would include (1) any vendor invoices that remained unpaid for more than ninety days after receipt, regardless of whether the hospital disputes such invoice, at the end of the prior calendar quarter, (2) the outstanding balances on such invoices at the end of the prior calendar quarter, (3) the number of days of cash on hand at the end of the prior calendar quarter, (4) the operating margin for the prior calendar quarter, and (5) the total margin for the prior calendar quarter. Hospitals would report the proposed additional financial information quarterly on a uniform template developed by OHS with the goal of helping to identify hospitals who may need assistance before larger issues arise. The state has seen multiple requests from hospitals in recent years for assistance due to financial distress. This bill would provide the state with earlier warning signs of financial challenges permitting the state to begin engagement before financial issues reach crisis level.

This bill takes a comprehensive approach to addressing practices that may potentially harm and destabilize hospitals and our health care delivery system. This bill proposes proactive steps the state can take to ensure health care systems provide quality, accessible, cost-effective health care for all and I urge the committee to take favorable actions.

### **Testimony regarding HB 5319**

OHS appreciates the intent of this bill to evaluate private equity firms seeking to purchase health care facilities. Nationally, there has been an increase of hospital ownership by private equity firms which has impacted the quality of care for patients<sup>1</sup>. As written, the bill would require the Office of Health Strategy to develop a plan concerning private equity firms acquiring or holding an ownership interest in health care facilities in the state. OHS believes that the Governor's bill, *An Act Promoting Hospital Financial Stability* (SB 9), addresses many of the issues this bill would ask OHS to evaluate. Rather than focus on specific entities (like private equity firms), the governor's bill focuses on specific potentially harmful practices that, while perhaps more frequently employed by private equity firms, could be used by other corporate entity types. As described in OHS's testimony for SB 9, that bill would expand the definition of "transfer of ownership" to include a transfer of a controlling interest in any entity that possess or controls, directly or indirectly, a twenty percent (20%) interest of a health care facility, institution, or group practice. It would also expand the definition of "person" to include any public company and entity. Together, these revisions would allow for broader review of transfers of ownership that involve complex corporate arrangements such as multiple levels of holding companies and subsidiaries that currently shield such arrangements from OHS review.

Additionally, to further capture parent and grandparent companies beyond hospital transactions, OHS's proposed bill (HB 5316) addresses transfers of ownership involving "large

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<sup>1</sup> Kannan, S., Dov Bruch, J., and Song, Z. (2023). Changes in hospital adverse events and patient outcomes associated with private equity acquisition. *JAMA* 330(24), 2365-2375. DOI: [10.1001/jama.2023.23147](https://doi.org/10.1001/jama.2023.23147)  
Retrieved from <https://pubmed.ncbi.nlm.nih.gov/38147093/>

group” and “group” practices to include ownership by a “public company or entity.” By expanding the definition of entities subject to transfer of ownership and what constitutes “large group” and “group” practices, the state is better able to assess whether such transactions will jeopardize the future operations of the practices as well as potentially impact patient care.

In summary, OHS supports the intent of this bill and respectfully suggests that if both the SB 9 and HB 5316 are passed, the objectives of this legislation would be met.

### **Testimony Regarding HB 5320**

Medical debt affects just over eight percent of adults living in the United States and is more likely to impact those who are living with a disability or are in poorer health, have lower income and are uninsured<sup>2</sup>/underinsured. OHS appreciates the bill’s intent and shares the goal of ensuring that all patients who qualify for hospital financial assistance are aware of such assistance and are offered it before incurring medical debt.

On an annual basis, OHS currently collects hospital uncompensated care policies, patient activity and fund activity for Hospital Bed funds, as well as the amount of charity care charges provided to patients, and hospital bad debt totals. The majority of this information is available to the public on an OHS portal, allowing for comparison on statewide basis for the 27 acute care hospitals required to submit data.

While we support the broad objectives and various provisions of this bill, the current proposal would create new responsibilities for OHS which are not contemplated by the Governor’s proposed budget and surpass the capacity of our existing resources. Specifically, this includes the new requirement to develop a uniform application for hospital financial assistance that must be utilized by all hospitals and the collection and analysis of expanded hospital reporting to OHS. OHS would welcome the opportunity to work with the Committee to try to develop an approach that can be conducted within available appropriations.

This bill would prohibit hospitals from requiring patients to apply for assistance through other state and federal programs prior to receiving hospital financial assistance unless the hospital had a reasonable basis to believe that the patient would qualify for one or more of such programs. OHS is concerned about the unintended consequences of such a prohibition and believes that uninsured individuals are best served by ensuring that they access any available public option for coverage, such as HUSKY Health, Medicare or CoveredCT before resorting to hospital financial assistance to cover their care. However, to protect patients who do apply for other forms of financial assistance, OHS would recommend additional language that would prohibit hospitals from sending debt to collections while patients apply for state and federal assistance.

May I note though, that the Governor did fund an initiative to address future medical debt avoidance through resources provided to the Office of the Healthcare Advocate. \$500,000 in

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<sup>2</sup> Rakshit, S., Rae, M., Claxton, G., Amin, K., and Cox, C. (2024, Feb 12). The burden of medical debt in the United States. Peterson-Kaiser Family Foundation: Health System Tracker. Retrieved from <https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states/#Share%20of%20adults%20who%20have%20medical%20debt,%20by%20demographics,%202021>

ARPA funding will support the creation of an online platform where residents can check potential financial assistance program eligibility to help avoid medical debt in the first place. In addition, program data from the medical debt erasure initiative will help inform other healthcare policy initiatives by helping to isolate the causes of medical debt and address barriers in accessing existing financial assistance benefits. The new online information tool will be housed in the Office of the Healthcare Advocate, providing them with another resource when working with state consumers concerned about the adequacy of their medical coverage. These investments to address medical debt are complemented by the additional affordability proposals described in SB 9 and HB 5054 which address the root causes of high healthcare costs, including prescription drugs and the affordability of insurance premiums.

### **Conclusion.**

Thank you for providing OHS with the opportunity to testify on these important matters before the Committee. OHS respectfully requests support of the Governor's SB 9 that would enhance protections and stability of Connecticut's hospitals and health care systems through additional reporting mechanisms and oversight. While OHS supports the broad goals of HB 5319 and 5320, for the aforementioned reasons, we cannot support implementation of those bills in their current form. If you have any further questions, please do not hesitate to contact OHS through our legislative liaison, Cindy Dubuque-Gallo, at [cindy.dubuque-gallo@ct.gov](mailto:cindy.dubuque-gallo@ct.gov).