CONNECTICUT HOSPITAL ASSOCIATION

TESTIMONY OF
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BEFORE THE
APPROPRIATIONS, FINANCE, HUMAN SERVICES, AND PUBLIC HEALTH COMMITTEES
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The Connecticut Hospital Association, et al. v. Connecticut Department of Social Services, et al. Settlement Agreement

An Act Concerning Implementation Of The Approved Settlement Agreement In The Connecticut Hospital Association Et Al. V. Connecticut Department Of Social Services Et Al. And Making Appropriations Therefor

Good afternoon. My name is Stephen A. Frayne, and I am the Senior Vice President, Health Policy, Connecticut Hospital Association (CHA). I am here today to testify in support of **An Act Concerning Implementation Of The Approved Settlement Agreement In The Connecticut Hospital Association Et Al. V. Connecticut Department Of Social Services Et Al. And Making Appropriations Therefor.**

Hospital provider taxes are used in nearly every state and, generally speaking, are supported and championed by hospitals. The reason: in those states, hospital tax dollars are used to cover the state share of Medicaid expenditures and leverage the federal match, which, in large part, is used to increase funding to the hospitals over and above the hospital tax dollars contributed. However, each of the two times Connecticut has instituted a hospital tax, it starts in a similar way but eventually changes for the worse for hospitals. The extra help is eliminated and the financial return to hospitals becomes less than the tax dollars contributed. What starts out as not a "real tax" actually becomes one.

The first time this happened was in the 1990s. Thankfully, back then the Legislature decided the best course of action was to phase down and eliminate the tax over several years. The second time it happened was when the hospital tax was restarted in 2011. It is this most recent history that brings us here today.

In 2011, the hospital tax was rebooted. The goal was to maximize federal revenue and help both the state and hospitals. It was supposed to work as follows: hospitals would pay $350 million in taxes and receive $400 million in Medicaid payments. That's a return of all the hospital tax dollars plus $50 million – one-quarter of the increase in federal dollars. The balance of the increase in federal revenue, $150 million, was deposited in the General Fund and used to reduce the state deficit. Hospitals were expected to go along with this plan and its revenue dislocations despite serious misgivings based on the prior decade's experience because, in the aggregate, hospitals would be made whole and get a piece, albeit small piece, of the federal revenue.

Within one year of the hospital tax passage in 2011, the promise that all tax dollars would be returned, plus a quarter of the increase in federal funds, was abandoned. What started out as an effort to maximize federal revenue turned into a direct taxation of hospital services. Table 1 sets forth the impact of the hospital tax from SFY 2012 thru 2019.

Table 1. Hospital Tax Impact 2012 thru 2019 ***(in millions)***

	Hospital Impact			State Impact	
	Tax	Return**	Gain/(Loss)	Match*	Gain/(Loss)
	A	B	C	D	E
			A - B	*B x Rate*	*D - C*
2012	(349)	400	50	200	149
2013	(349)	323	(26)	161	188
2014	(349)	230	(119)	134	254
2015	(349)	96	(253)	64	318
2016	(556)	164	(392)	110	502
2017	(556)	118	(439)	79	517
2018	(900)	671	(229)	450	679
2019	(900)	669	(231)	448	679
Total	(4,309)	2,670	(1,639)	1,646	3,285

** Match rate was 50% 2012 and 2013, 59% in 2014, and 67% 2015 thru 2019.*

***Includes Supplemental Payments and rate increases.*

As you can see from the chart above, the loss on the tax for hospitals more than quadrupled from 2013 to 2014, and more than doubled again from 2014 to 2015. Federal dollars to help balance the budget were abandoned and replaced with a real tax on hospitals – a tax that cost hospitals $1.639 billion over eight years. Table 1a depicts what would have happened if, beginning in 2013, the tax was set to breakeven. Connecticut would have attracted $1.1 billion more federal dollars, hospital losses would have been zero (instead of $1.6 billion in losses), and the state would have benefitted only $572 million less than it did.

Table 1a. Hospital Tax Impact 2012 thru 2019 (*in millions*)						
Break Even 13 to 19						
	Hospital Impact				State Impact	
	Tax	Return**	Gain/(Loss)		Match*	Gain/(Loss)
	A	B	C		D	E
			A - B		*B x Rate*	*D - C*
2012	(349)	399	50		200	150
2013	(349)	349	0		175	175
2014	(349)	349	0		204	204
2015	(349)	349	0		234	234
2016	(556)	556	0		373	373
2017	(556)	556	0		373	373
2018	(900)	900	0		603	603
2019	(900)	900	0		603	603
Total	(4,309)	4,359	50		2,763	2,713

These tax changes were not the only negative impact on hospitals. At the same time, Medicaid payment rates were frozen (since 2008) and cut. Hospital losses on providing services to Medicaid patients were growing rapidly. In 2008, the statewide loss providing hospital services to Medicaid patients was just over $308 million. In 2015, the first full state fiscal year after the implementation of the Affordable Care Act (ACA), the loss had more than doubled to $732 million and, when combined with losses from the hospital tax, had nearly tripled to $986 million per year. The result was Medicaid payments, after the tax, were then covering just 53% of cost – down from the historical average of 72% of cost. At this point, hospitals filed petitions challenging the tax, and rate appeals challenging the adequacy of Medicaid rates.

In 2017, we worked with legislative leadership and the Administration to come to an historic agreement – one that raised additional funds for the state and reduced by nearly half the hospital tax loss. The agreement was passed by the Senate and the House, and received overwhelming support from all four caucuses. Table 1 depicts that agreement for 2018 and 2019. In short, the agreement raised the hospital tax from $556 million to $900 million per year, and raised payments back to hospitals from $118 million to $671 per year. This arrangement helped the state and hospitals. For hospitals, the loss under the tax was reduced and, for the state, the gain from the tax was increased. While this agreement represented progress, it did not resolve all legal matters.

In January 2019, upon the swearing in of the Lamont Administration, we began working together to see if we could resolve all legal matters. This May, we announced that we had reached an agreement in principle on the economic terms. Earlier this month, we announced that we had come to agreement on all of the terms.

Table 2 depicts the impact of the settlement to hospitals and the state over the term.

Table 2. Hospital Tax Impact 2020 thru 2026 (*in millions*)					
	Hospital Impact			State Impact	
	Tax	Return**	Gain/(Loss)	Match*	Gain/(Loss)
	A	B	C	D	E
			A - B	*B x Rate*	*D - C*
2020	(890)	808	(82)	486	568
2021	(882)	751	(131)	500	631
2022	(850)	804	(46)	535	581
2023	(850)	838	(12)	558	570
2024	(850)	873	23	581	558
2025	(850)	908	58	605	547
2026	(820)	944	124	629	505
Total	(5,992)	5,926	(66)	3,894	3,960

** Match rate is 66.6% for all years.*

***Includes Supplemental Payments ($548 for 2020 and 2021, $568 for all other years) and rate increases. Note, in 2020 there is a one time payments of $79 million; this payment is not matched.*

As can be seen from Table 2, the tax slowly reduces over time from its current level of $900 million – to $890 million in 2020 and then down to $820 million in 2026. Supplemental payments are set at $548 million for the first two years and then increase to $568 million thereafter. Payment rates for Medicaid hospital services are increased by 2% per year each January 1st. As a result, the settlement, over time, returns the hospital tax to where it started in 2011. This phase-in maintains significant benefit for the state and allows for an orderly transition from where we are now. It converts the hospital tax from a loss to a gain-share over time, and returns Medicaid hospital payment levels closer to their long-term average of covering about 70% of cost.

The settlement also provides protections for all parties. It permits the state to reopen, and even terminate, the agreement, in the event changes at the federal level make it impossible to achieve the financial terms. It provides hospitals with the security that changes to other taxes, exemptions, or rate-setting methods will not be taken up in a manner that undermines the hospitals' ability to benefit from the agreement. It provides court enforcement of its terms.

We believe this agreement is fair, and urge the Generally Assembly to accept it and adopt the legislation necessary to implement it. We want to thank Governor Lamont for his leadership and willingness to work to resolve these issues. In addition, we also want to thank Secretary McCaw, Bob Clark, Commissioners Jackson and Gifford, and Attorney General Tong, as well as the numerous individuals in those respective offices who worked with us to develop this agreement. Finally, we also wish to thank legislative leaders and members from both sides of the aisle who have encouraged us all to get to this day.

If you have any questions, I will be happy to answer them.