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PUBLIC HEALTH COMMITTEE
Testimony on SB 1
An Act Equalizing Comprehensive Access to Mental, Behavioral,
and Physical Health Care in Response to the Pandemic
March 17, 2021

Senator Abrams, Rep. Steinberg, and members of the Public Health Committee:

My name is Cathy Ludlum, and I am submitting testimony as part of a broad coalition of Black, brown, indigenous and Asian people; advocates for older adults; and people with disabilities. Our coalition was brought together by the fact that our populations in particular experience healthcare disparities. SB 1 offers an opportunity to begin to address some of these disparities.

While we are generally in favor of the legislation, we have some language to add and a section that we would like to see removed and addressed in separate legislation.

Beginning with the latter, advocates for peer support services urge that Section 2 be eliminated. These issues are better addressed by a different bill, HB 6588. Our coalition supports the passage of HB 6588, which will allow for a meaningful and representative process that will inform further development of a peer workforce in Connecticut.

Regarding the language we would like to see added to SB 1, advocates have been calling upon the Connecticut Department of Public Health for almost a year to issue uniform guidelines to hospitals prohibiting disability, age, or race discrimination in the rationing of life-sustaining measures, should rationing become necessary because of COVID-19. Many other states have long since issued this guidance, but DPH has refused.

It should not matter which hospital you go to. Your race, age, or disability should not result in a denial of treatment, whether based on discriminatory policies, absence of any policy, and/or implicit bias. Since DPH has refused to issue this crucial guidance, hospitals currently have widely varying policies, putting already vulnerable people at further risk.

Along with my fellow coalition members, I strongly urge you to add the language below to SB 1.

Thank you for your time and consideration.

New Language for SB 1 Requiring Department of Public Health Guidance Prohibiting Discriminatory Rationing of Healthcare by Hospitals

Proposed New Sections:

Section 1. The Department of Public Health shall, *no later than July 1, 2021*, issue guidance to all Connecticut hospitals which shall require each hospital to promptly develop and place on its website within 15 days thereafter hospital-wide guidelines providing, in the event rationing of life-saving healthcare should become necessary for any reason, that:

- a) consideration of disability, age, race or ethnicity is prohibited, independent of its impact on immediate survivability, as a factor in triage scoring protocols or in deciding who receives treatment.
- b) age may not be used as a tie-breaker in considering such decisions.
- c) consideration is only allowed regarding imminence of mortality in the hospital following treatment for the immediate acute crisis, with consideration of likely survival after discharge from the hospital prohibited.
- d) all individuals must be deemed qualified for, and eligible to receive, lifesaving care, regardless of pre-existing medical conditions, disabilities or co-morbidities which do not bear on immediate survivability.
- e) criteria that erect extra burdens on the ability of people with disabilities to access care, on the basis of their diagnosis or need for assistance with activities of daily living, are prohibited.
- f) consideration of “quality of life” or “worth” of people with disabilities, or any other group of patients, is prohibited.
- g) all decisions based on a Sequential Organ Failure Assessment (SOFA) or other triage scoring protocols must result from individualized assessments based on available objective medical evidence.
- h) the SOFA or other triage scoring protocols must include reasonable accommodations/modifications of the protocols for people with disabilities in order to ensure that they are evaluated based on their actual immediate mortality risk
- i) resource-intensity and duration of need on the basis of age or disability may not be used as criteria for the allocation or re-allocation of scarce medical resources
- j) removal of medical equipment belonging to a patient upon admission, for reallocation to another patient, is prohibited.

k) patients may not be steered into agreeing to the withdrawal or withholding of life-sustaining treatment as a condition of receiving services; patients shall receive information on the full scope of available life-saving treatments; and hospitals may not impose blanket “Do Not Resuscitate” policies for reasons of resource constraints.

l) there shall be a well-publicized appeals process available for any patient or their representative in disagreement with the results of a treatment rationing determination made with respect to that patient, with life-saving treatment provided during the pendency of any appeal, and a decision rendered within three days of the filing of the appeal.

m) the patient and known representative of the patient shall be notified immediately whenever a determination to deny treatment is made pursuant to the SOFA or any other triage scoring protocols, which notification shall include information about the means to access the appeals process.

Section 2. Prior to issuing the guidance provided for in the above section, the Commissioner of Public Health shall review guidance issued by the U.S. Department of Health and Human Services’ Office for Civil Rights and by other states for best practices and shall consult with advocates for older adults, people with disabilities and Black, brown, indigenous and Asian health consumers in the state for input on the details of the guidance document.