ATTORNEY GENERAL WILLIAM TONG
STATE OF CONNECTICUT

Testimony of Special Co-Counsel for Reproductive Rights Alma Nunley and Emily Gait
Senate Bill 7, An Act Concerning Protections for Access to Health Care and the Equitable Delivery of Health Care Services in the State
Public Health Committee
March 24th, 2025

Thank you for the opportunity to submit testimony regarding S.B. 7, which establishes protections for patients seeking emergency medical treatment in the State. The bill also protects providers who give medically accurate and relevant health care information to patients and medically necessary emergency medical care. The Office of the Attorney General supports this bill, but requests one change be made.

Protections for Patients Suffering from an Emergency Medical Condition
S.B. 7 Sections 5 to 13

When an individual arrives at a hospital or free-standing emergency department suffering from an emergency medical condition or in active labor, they should be provided the care needed to stabilize their condition. The patient's inability to pay for care, or other non-medical factors, should not be a barrier to life-saving health care.

Recognizing the danger in allowing hospitals to decline to treat uninsured or underinsured patients, in 1986 Congress enacted the Emergency Medical Treatment and Labor Act (EMTALA).[1] EMTALA requires Medicare-participating hospitals to: (1) appropriately screen a patient to determine whether the patient is suffering an emergency medical condition; (2) either stabilize the patient or transfer them to a facility able to provide the necessary care; and (3) only transfer the patient if it is medically necessary or the patient provides informed consent.[2]

For example, if a man were to go to a hospital's emergency department complaining of chest pain and shortness of breath, and a provider determined after screening the man that he was suffering a heart attack and needed immediate treatment that the hospital could provide, the hospital could not simply discharge the man with instructions to go to the hospital where his cardiologist practiced. If an elderly woman were brought to a hospital's emergency department after a fall complaining of severe pain and an inability to walk, it would be a violation of EMTALA if the provider did not complete a thorough examination and discharged the woman with an undiagnosed hip fracture.

In 2022, in *Dobbs v. Jackson Women's Health Organization*, the Supreme Court overturned decades of precedent holding that the United States Constitution protects women's rights to control their own bodies, including the choice to have an abortion. Since then, states have passed numerous laws both to protect and prohibit access to abortion care. As a result,

[1] Pub. L. 99-272, title IX, § 9121(c)
[2] 42 U.S.C. § 1395dd

165 Capitol Avenue
Hartford, Connecticut 06106

conflicts have arisen between different states' laws and between state and federal laws, including EMTALA.

Under the Biden administration, consistent with prior interpretations of EMTALA, in litigation between the federal government and states, the federal government interpreted EMTALA to set a standard of care and require a hospital to provide an abortion if medically necessary to stabilize an emergency medical condition regardless of whether state law prohibited an abortion to save the health of the patient. After Idaho enacted a near-total abortion ban, without an exception for the health of the mother, the Biden administration brought an action against the state for preventing doctors from providing an emergency abortion unless the woman was near death and requiring women to be transported to another state by helicopter to receive care necessary to prevent serious injury or death.[3] The Trump administration has not publicly stated its position on the issue, but has stipulated to withdrawal of its case against Idaho, which strongly indicates a change in position. Although abortion is legal in Connecticut, the lack of clarity regarding the federal government's changed position leaves open the strong possibility that the federal government would not enforce EMTALA against a hospital that failed to provide an emergency abortion. Nor is it clear that the federal government would enforce EMTALA consistent with prior interpretations in other non-abortion circumstances where conflict, or even simple ambiguity, exists between state and federal law.

States that have enacted a state-level EMTALA have greater ability to protect the health and welfare of patients in their states. For example, California recently brought an enforcement action against a private hospital that refused to provide an emergency abortion to a woman suffering a medical crisis.[4] The woman was fifteen weeks pregnant with twins, when she went to the emergency department with pain and severe bleeding after her water prematurely broke. The doctor diagnosed her with Previable Premature Pre-labor Rupture of the Membranes (PPROM) and confirmed her twins could not survive. The doctor knew that failure to provide immediate abortion care placed the woman at increased risk of permanent harm or death from infection and hemorrhage. Nonetheless, the hospital discharged the woman because hospital policy prohibited an emergency abortion when there was a "detectable heartbeat." The hospital instructed the woman to drive to another hospital 12 miles away and gave her a bucket and towels "in case something happened in the car." Fortunately, the woman arrived in time to receive the care she needed. But had the same thing occurred several months later, after the second hospital had closed its labor and delivery unit, the woman would have faced a much longer trip and might have suffered a much worse outcome.

Beyond requiring Connecticut hospitals to perform an emergency abortion if necessary to stabilize a patient's emergency medical condition, S.B. 7 would establish that regardless of

[3] *Moyle v. United States*, 603 U.S. 324 (2024); *Texas v. Becerra*, 89 F.4th 529 (5th Cir. 2024)
[4] https://oag.ca.gov/news/press-releases/attorney-general-bonta-draconian-hospital-policies-deny-emergency-abortion-care

whether the federal EMTALA establishes a standard of care, Connecticut does. It would further ensure that the provisions of EMTALA are enforced in Connecticut if the federal government declines to enforce the federal EMTALA.

States also can go beyond the floor set by the federal EMTALA and provide additional protections to patients in their states. S.B. 7 does not merely mirror the federal EMTALA, in Section 12 it also provides patients protection from discrimination in the provision of medical care. Section 12 is generally consistent with existing anti-discrimination laws in Connecticut[5] and makes clear that those same protections apply in the provision of medical care. We note one significant difference and request that S.B. 7, Section 12 be changed to more closely align with existing anti-discrimination laws:

At line 747 after "orientation," add "gender identity or expression,"

At line 759 after "orientation" add "gender identity or expression,"

The Trump administration's recent Executive Orders directly attack transgender individuals and seek not only to end gender-affirming care, but to erase transgender individuals from society. *See* Executive Order Nos. 14,168 "Defending Women for Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," 14,187 "Protecting Children from Chemical and Surgical Mutilation," and 14,183 "Prioritizing Military Excellence and Readiness." These additions to Section 12 would help Connecticut to protect transgender individuals from discrimination, including in the health care context, to the fullest extent possible.

Protections for Providers Who Counsel Patients on Reproductive and Gender-Affirming Health Care or Provide Care Necessary to Stabilize an Emergency Medical Condition
S.B. 7 Section 4

A doctor has a duty to present medical facts accurately to their patient and to make recommendations for care management in accordance with good medical practice. That obligation can only be satisfied if the patient is provided with enough information to enable an informed decision.[6] Although health care entities are able to determine which treatments and care they provide outside of the emergency context, when health care entities go further and prohibit providers from even discussing certain types of treatment or care they prevent providers from fulfilling their ethical obligations to their patients.

S.B. 7 Section 4(b) prohibits health care entities from punishing providers for providing medically accurate and appropriate information and counselling concerning reproductive and gender-affirming health care with their patients. Section 4 provides safeguards by requiring

[5] *See*, e.g. Conn. Gen. Stat. § 46a-64
[6] AMA Code of Medical Ethics' Opinions on Informing Patients, https://journalofethics.ama-assn.org/article/ama-code-medical-ethics-opinions-informing-patients/2012-07

that the provider be qualified to provide care in the relevant area, act within the standard of care, and provide information and counseling that meets standards for reliability and applicability.

Section 4(c) also ensures that providers are able to provide medically necessary care, including reproductive health care, to stabilize an emergency medical condition regardless of whether the health care entity permits the provision of such care outside of the emergency context. It further ensures that providers are able to exercise their medical judgment and decline to transfer a patient when transfer would create an unreasonable risk of causing the patient to suffer a medical hazard. As with information and counselling, a health care entity's ability to control the care it provides is protected because the provision only applies when there exists an emergency medical condition and failure to provide the specific care would violate accepted standards of care. In other words, a health care entity cannot punish a provider for taking actions that would be required by Sections 5 to 13 of S.B. 7.

Thank you once again for the opportunity to submit testimony on this bill. For additional information, please contact Nate Kalechman, Director of Legislative Affairs for the Office of the Attorney General, at nathan.kalechman@ct.gov.