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**TESTIMONY ON 14-H 7091, RELATING TO  
CONFIDENTIALITY OF HEALTH CARE COMMUNICATIONS  
April 30, 2014**

The ACLU opposes this bill, which would create an exemption from the health care confidentiality statute to require health care providers to report alleged incidents of elder abuse to law enforcement. There is already a reporting requirement to the department of elderly affairs, which can then refer the matter to police after investigation. We support this approach and believe that automatically involving law enforcement is inappropriate.

While such a process is in place for reporting child abuse, that exemption is based on the understandable premise that children simply do not have the ability to give consent to disclosure of information. The same is obviously not true of the elderly. The bill makes no attempt to distinguish between the vast majority of competent elders and the small subset of individuals who, because of incapacity due to age or medical condition, could be deemed similarly unable to consent as children. Further, by encompassing the broad standards of “abuse” as defined in the law, which includes “emotional” abuse, the bill also authorizes law enforcement to inappropriately intervene in a wide variety of intra-family situations, trying to determine whether family dynamics rise to the level of such abuse. The department of elderly affairs is much better suited to make initial determinations like that.

Even if the committee were inclined to create an elder abuse exemption, the federal health care confidentiality law, HIPAA, contains standards, including notification requirements to the patient, that are not contained in this bill. See 45 CFR 164.512(c).

The current law appropriately balances the interests of the public in addressing elder abuse and the interest of patients in protecting their medical privacy. We therefore urge rejection of this bill.