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Robert A. Malson
President

Testimony before the
Council of the District of Columbia
Committee on Government Operations and the Environment

on

**Bill 18-521 – “Human and Environmental Health Protection Amendment Act
of 2009”**

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Presented by
Robert A. Malson
President
January 20, 2010

Chairman Cheh and members of the Committee on Government Operations and the Environment, I am Robert A. Malson, President of the District of Columbia Hospital Association (DCHA). DCHA members employ approximately 30,000 people who are on the front lines for delivering quality health care and for responding to any medical emergency in the District of Columbia. We provide over 720,000 days of patient care annually with an annualized occupancy rate of approximately 75 percent. The emergency room visits exceed 410,000 and, collectively, we provide over \$220 million in unsponsored care annually. Clearly, we play a critical role in the District's health care delivery system.

I appreciate the opportunity to present testimony on Bill 18-521, the Human and Environmental Health Protection Amendment Act of 2009. I applaud your and Councilmember Wells' efforts to ensure the chemical safety of all products used in the District, especially those products used by and for our children. DCHA understands the intent of the legislation; however, the District of Columbia hospitals cannot support the proposed ban of the distribution of products containing bisphenol-A and phthalates among children under the age of six. The bill would prohibit hospitals' procurement and use of several common medical products and devices for which there may be no reliable bisphenol-A or phthalate-free alternatives, even though exposure is minimal. This would adversely affect the quality of care our hospitals can offer our neonatal and pediatric patients. We request that should you decide to move forward with this bill, the hospitals' lack of alternatives for treatment would be considered and

there would be an exemption included in the bill for medically essential products and devices approved by the Food and Drug Administration (FDA) for use in children.

Diethylhexyl phthalate (DEHP) is used in several FDA-approved medical products commonly used in hospitals including intravenous tubing, neonatal equipment and blood bags. Bisphenol-A is used in incubators, kidney dialyzers and blood oxygenators. All of these items are routinely used in patients under age six and in adults because their utility has been determined to outweigh concerns about other potential risks. In many cases, alternative medical products and devices that are free of DEHP or bisphenol-A are simply not available. For example, DEHP has been used in blood bags for decades. At one point, pharmaceutical company Baxter International and Fenwal, an independent leader in transfusion products and services, tried to develop another plasticizer, but it simply didn't work. If DEHP was not in blood bags, the bags would fracture when handled. This legislation would not only prohibit the use of these blood bags with child patients, but would also prohibit the distribution of the blood bags in the District, possibly affecting hospitals' ability to get critically needed blood units that may be collected and/or processed elsewhere in DEHP bags and sent to District hospitals.

DCHA appreciates the intent of the legislation and your efforts to protect the District's children, but we have an obligation to ensure a safe environment and high quality care. Under the provisions of the Human and Environmental Health Protection Amendment Act as written, hospitals with neonatal intensive

care units, pediatric intensive care units or birthing facilities would be in violation of District law simply by using the FDA-approved equipment necessary to provide quality care. By providing an exception for FDA-approved, medically essential products and devices, the District could achieve its goal of ensuring the safety of products without compromising patient safety and care.

Thank you for the opportunity to present my testimony. Both I and my colleague, Dr. Jerry Paulson, Medical Director for National & Global Affairs in the Child Health Advocacy Institute at Children's National Medical Center, are available to answer any questions.