Legislative History for Connecticut Act

Act Number:	07-31	
Bill Number:	1378	
Senate Pages:	1470, 1505-1506	**3**
House Pages:	2163-2169	**7**
Committee:	Labor: 1797-1800, 1803-1806, 1811, 1813-1814, 1845-1847, 1961-1967	**21**

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2007

VOL. 50
PART 5
1346-1688

Hearing no objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 250, Senate Bill 1044, Mr. President, would move to refer this item to the Committee on Higher Education.

THE CHAIR:

Hearing no objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 254, Senate Bill 1378, I would move to place this item on the Consent Calendar.

THE CHAIR:

Hearing no objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Calendar 261, Senate Bill 96, would move to refer this item to the Appropriations Committee.

THE CHAIR:

Hearing no objection, so ordered.

Calendar 381, House Bill 7108.

Calendar Page 24, Calendar 387, House Bill 7109.

Calendar 388, House Bill 7127.

Calendar 389, Substitute for House Bill 7265.

Calendar Page 28, Calendar 412, Senate Bill 1454.

Calendar Page 33, Calendar 133, Substitute for Senate Bill 1102.

Calendar 136, Substitute for Senate Bill 1190.

Calendar Page 34, Calendar 241, Senate Bill 1337.

Calendar page 35, Calendar 254, Substitute for Senate Bill 1378.

Calendar Page 38, Calendar 317, Substitute for Senate Bill 1224. Mr. President, I believe that completes those items previously placed on the first Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk. Please call the roll call vote again, please.

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, the machine will be locked. The Clerk will announce the tally.

THE CLERK:

Motion is on adoption of the Consent Calendar.

Total number voting, 35; those necessary for adoption, 18. Those voting "yea", 35; those voting "nay", 0. Those absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted. Senator Looney.

SEN. LOONEY:

H-990

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
2007

VOL. 50
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1975-2324

Total Number Voting	135
Necessary for Passage	68
Those voting Yea	117
Those voting Nay	18
Those absent and not voting	16

DEPUTY SPEAKER GODFREY:

The bill is passed in concurrence with the Senate. The Chair has noted that one of the light bulbs went out on the east side voting machine.

The west side is still working fine, although obviously the day is not bright for Representative Dargan through Giannaros, but we will continue to press on. The computers are all working just fine. And in which case, Mr. Clerk, please call Calendar Number 503.

CLERK:

On Page 15, Calendar Number 503, Substitute for Senate Bill Number 1378, AN ACT CONCERNING THE WORKERS' COMPENSATION MEDICAL PRACTITIONERS' FEE SCHEDULE AND TIME FOR FILING A WORKERS' COMPENSATION

APPEAL, Favorable Report of the Committee on Insurance and Real Estate.

DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Labor Committee, Representative Kevin Ryan.

REP. RYAN: (139th)

Thank you, Mr. Speaker. I move for an acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage. Would you explain the bill, please, Sir.

REP. RYAN: (139th)

Thank you, Mr. Speaker. Mr. Speaker, this bill was brought to us by the Workers' Comp Commission Chairman, and its point is to develop a physician fee schedule. This is used to pay physicians for services rendered under the Workers' Compensation Act.

They want to use values from the Medicare Resource Based Relative Value Scale, and this scale

ranks medical services according to the relative cost of resources to produce the service.

Medicare uses basically three components to calculate the resource costs, and therefore the relative value of each medical service, giving 55% weight to the physician's work, 42% weight to the practice expense, and a 3% to the professional liability insurance.

The Medicare program uses this fee to determine their final fee by multiplying the total relative value unit of a particular medical service by a conversion factor.

The RBRVS methodology is familiar to and accepted by all physician practices due to Medicare being the largest payer of medical services in the nation.

So in essence, the bill will allow the Workers' Compensation Commission to establish a medical fee schedule that closely approximates the methods used in current medical [inaudible] place to determine the appropriate level of compensation to physicians.

It's going to assure that physicians are fairly compensated, thereby keeping experienced physicians in the system and providing injured doctors, or excuse me, injured workers with access to an established quality level of medical service.

It will help control costs, keep Connecticut a good place to work and do business, and it's going to allow for the reduction of a medical fee schedule less expensively and to have a base of comparison with other jurisdictions.

Another portion of the bill deals with a 20-day deadline to file an appeal to the Compensation Review Board. Currently it begins when the motion has been filed but not yet ruled on.

And this just extends that 20-day time to the point when the motion is actually ruled on. It begins the 20-day period at that point in time. I'd ask my colleagues to support this bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. The distinguished Ranking Member of the Labor Committee, Representative William Aman.

REP. AMAN: (14th)

Thank you, Mr. Speaker. As this was so adequately explained, this does take the Workman's Compensation Fee Schedule and modernize it. What has been used for the last many years is the term usual and customary charges.

That as a concept has been pretty much eliminated by the insurance companies, and the Workman's Compensation Board has been having trouble at times coming up with what an adequate term for usual and customary charges.

This will put everything on the same as Medicare. I think the important thing for this Chamber to understand is also that this is revenue-neutral as far as the Workman's Compensation Board is concerned.

It is just a matter of updating and modernizing the way the charges are allocated. So I urge my colleagues to support this legislation.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. Will you remark further on this bill? Will you remark further on the bill? If not, staff and guests please come to the Well of the House. Members take your seats. The machine will be open.

CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber. The House is voting by Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER GODFREY:

Have all the Members voted? I guess not. Have all the Members voted? If so, the machine will, the machine will be locked. The Clerk will take a tally. And the Clerk will announce the tally.

CLERK:

Senate Bill Number 1378, in concurrence with the Senate.

Total Number Voting	135
Necessary for Passage	68
Those voting Yea	135
Those voting Nay	0
Those absent and not voting	16

DEPUTY SPEAKER GODFREY:

The bill is passed in concurrence with the Senate. Will the Clerk please call Calendar Number 155.

CLERK:

On Page 28, Calendar Number 155, Substitute for House Bill Number 7156, AN ACT CONCERNING HOSPICE SERVICES (as amended by House Amendment Schedule "A"), Favorable Report of the Committee on Public Health.

DEPUTY SPEAKER GODFREY:

The distinguished Chairwoman of the Public Health Committee, Representative Sayers.

REP. SAYERS: (60th)

Thank you, Mr. Speaker. Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage. Please explain the bill, Madam.

REP. SAYERS: (60th)

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SEN. PRAGUE: Okay. Would that be an appropriate loss ratio for companies that would allow them to offer workers' comp insurance in the State of Connecticut, and make a decent profit.

GEORGE BRADNER: I really couldn't comment on that, Senator. I think, you know, an issue you would have to comment on that, you know, just there is a lot that has to be considered with that.

SEN. PRAGUE: Okay. Thank you very much.

GEORGE BRADNER: Thank you.

REP. RYAN: Thank you. Are there any other questions? Thank you. Thank you for coming in today.

We have gone way past the time for elected officials, so I would hope that the people waiting to speak would bear with us and just let us finish up on a couple of more. The next person will be John Mastropietro, and he will be followed by Carol Wilson.

JOHN MASTROPIETRO: Good morning, Senator Prague, SB931 Representative Ryan, Members of the Committee. My name is John Mastropietro and I have the privilege of chairing the Workers' Compensation Commission. I thank you for the opportunity to appear before you today.

I will keep my comments very brief. I have two Bills that I would like to express comments on. The first is Senate Bill 1378. I am going to keep my comments very brief because you have

testimony before you that is, goes beyond of what I will be saying today.

It gives you more of the technical information. This on its face, appears to be a very difficult, technically technical bill, when in reality, it really is not.

And perhaps, if I might be able to just boil it down for you as to what we're doing and why. What this bill does is recognize that the way that we presently establish the fee schedule to be paid to medical providers under workers' compensation that was established back in 1993 when the revisions for workers' compensation took place is using criteria that simply no longer exists today.

And as a result of that, it is become much more difficult for us to meet our obligation of yearly publishing that new fee schedule, first and foremost.

Secondly, the number of companies over the cost of the years that we were able to contract out to help us with this endeavor has now dwindled to just one.

The one remaining company has asked us, on a number of occasions, to please think of a new way of doing business because their ability to be able to certify the accuracy of what information their giving to us is becoming much more difficult, and they are having difficulties relying on that information.

The net result is, what we are looking to do is to get away from the criteria that was used in 1993, which was a percentile of the usual and customary fees that were charged, which is nomenclature, is a dinosaur that was used years ago, and simply does not exist today.

And, instead, come up with a new method. Now we have two ways in which we can approach that. We can come up with a method all of own, and in effect, recreate the wheel.

Or, what we could do is to adopt what has become the criteria that is established within the medical community that everyone understands, and that is the methodology, and I emphasize the word methodology utilized by Medicare in terms of establishing the relative value of services rendered by medical professionals.

When I say that we are emphasizing the word methodology, what I mean by that is, that this bill does not in anyway affect the amount of money that is reimbursed to medical providers for the services that they are rendering.

That's not what this Bill is about. We are not looking to impact the amount of fees that are paid. We are rather looking to, instead, come up with methodology that today, that matches what happens in today's world as oppose to what we are forced to do presently utilizing the regs that were established back in 1993, that are relying on methodology that's simply does not exist today.

Sc it might appear on its face to be a complicated procedure, but I really don't believe it is. I think it is simply a recognition that would have existed in 1993, does not exist today.

That there needs to be a new way of doing, coming up with this fee schedule, and that the best way to accomplish that, would be to adopt that which is already familiar within the medical community. Everyone agrees and has embraced it.

And rather than to come up with something different than that, and have the medical community have to learn something solely for workers' compensation, I think that is an exercise in futility when we can simply adapt that which is already been accepted, at least for purposes of methodology, and then we can still deal individually with the need for the amounts to be paid for the services rendered as time goes on.

So we would urge you to consider favorably our request that this be adopted so that we can better do our jobs as we are required each year to post new fee schedules, and it is becoming much more difficult and much more tenuous in terms of our ability to rely on the accuracy of what we are submitting.

So we would urge you to favorably support that. I have just a few comments on another bill. I don't know if you want me to go do that, or do you want me [inaudible].

The other bill is the proposed substitute Senate Bill 931. And the part that I am commenting on, we already heard testimony from Mr. McCarthy of the Department of Labor, that the federal rules preempt a large portion of what is initially written in this, and that's not what I was here to testify about today.

I simply would like to add my name and concern to the portion of the Bill that deals with employers who are purposely misclassifying the people that work for them as independent contractors as oppose to employees.

I am not commenting with respect to the way in which that needs to be remedied. Rather, I am voicing my support, or rather I should say, I am making the Committee aware that, we in the workers' comp community, experience this on a regular basis.

We recognize this as a real problem. In a very short scenario, what it amount to is less than scrupulous employers who chose to avoid their obligations under the law to carry workers' compensation insurance by classifying those who work for them as independent contractors as oppose to employees.

If they are employees, the employer is obligated obviously to carry insurance to cover their workers' compensation needs. If they are independent contractors, then that independent contractor is responsible for his or her own well-being, and the employer is not responsible.

When that is done correctly, when there is an appropriate classification, when the individual is truly an independent contractor, then there is no problem.

But if it is an employer, who is playing fast and loose with the definition, and purposely doing it, I'm not talking about a mistake, I'm talking about those that are purposely attempting to misclassify individuals, then what we have an honest employer who is carrying the insurance and the overhead that would be associated with that going out to quote a price for whatever work they are being contracted to do, that includes that overhead, so that that person can make a profit.

There is no way that that individual can compete with someone favorably who is not meeting that obligation.

Because if that other person does not have that overhead because they are purposely attempting to skirt the law, obviously they will be able to quote a fee, for whatever services that are rendered, less than the employer who is doing it legally.

And, it happens on a regular basis. We have seen it in workers' comp If that individual then needs, it doesn't come to us until the individual gets hurt, then the individual comes to us and says, well, I'm employed by the XYZ company, and the XYZ company says, oh, no, you weren't, you were an independent contractor.

We have to go through the process of determining what the true status of that individual is before we can even get to whether or not that individual should or should not receive benefits as a result of a compensable injury because he or she was an employee.

Again, I don't comment on the way to resolve the issue. I don't think that's necessarily within my battle wick, and probably would be inappropriate. But I do want to impress upon the Committee, that we are workers' comp do see this as a problem.

We think it is an issue of fairness. We think that there is a situation where legitimate employers are being penalized, in a sense, because they cannot, in a very real sense, because they cannot compete favorably with employers who are not meeting their obligations under the law.

And, I thank you for the time. I hope I did not take too long, and if there are any questions.

REP. RYAN: Representative Belden has a question.

REP. BELDEN: Good morning, Mr. Mastropietro. How are you?

JOHN MASTROPIETRO: I'm well, thank you.

REP. BELDEN: Can I go back to Senate Bill 1378 for just a minute.

JOHN MASTROPIETRO: Certainly.

REP. BELDEN: Do I assume, where we are talking about these correct coding, initiatives and all that, when I go to the doctor, they make out this form that has all these little blocks on it, that they check them off.

And I assume that's part of like a chart of accounts that would be used in the finance world where if you're going to have a lab test, it's this kind or that kind, is that the coding system that you are talking about.

JOHN MASTROPIETRO: In fact.

REP. BELDEN: This is a federal coding system.

JOHN MASTROPIETRO: It's each of those codes represent a service rendered.

REP. BELDEN: Okay.

JOHN MASTROPIETRO: They're called CPT codes. So if you go in for an examination to your physician, there will be a certain CPT code which will deal with that.

What we are suggesting is that what Medicare has done is develop a system that takes and comes up with a value. Not a value to be paid to the doctor, but rather the value of the service to the patient.

That takes into account what degree of experience the doctor should have. What the level of difficulties associated with the particular procedure. It takes these things

into consideration and comes up with, what they call, a relative value.

Then after that, Medicare assigns a fee associated with that. We are asking to stop at the point when we adopt the relative value for that service that Medicare has established, and then we will take the next step.

Deal with the unique circumstances of Workers' comp in establishing the fee that is associated with that value, which in this instance, we are suggesting will not change from the fee we are paying now. It is just simply an effort to re-establish the methodology that we used in order to get there.

REP. BELDEN: I think you just lead into my next question which essentially was the fee part of it because many doctors won't even recognize, or take a fee for the Medicare.

JOHN MASTROPIETRO: That's absolute correct.

REP. BELDEN: But you're just using the coding system.

JOHN MASTROPIETRO: Just the coding system. We do not, this is not designed to adopt the amount of money that Medicare reimburses for the services rendered.

REP. BELDEN: One other thing. When you implement and annually update this, would there be some kind of hearing, or those is no hearing or any kind of publication required here in this particular bill before us.

How does the public, or even the medical professional, how does anybody know what's going on when change these things on an annual basis.

JOHN MASTROPIETRO: Well, the medical profession who deals with workers' comp, first of all, it is done in conjunction with the Workers' compensation medical advisory board which is established by statute, and our fee, we need to do that in consultation with them.

In addition to that, we meet regularly with all of the various contributors to the Workers' Compensation Commission.

So from that prospective, we have their input on a regular basis. And believe me, when our fees fall below that which is paid elsewhere, they're not bashful about letting us know that.

So we know that pretty quickly. But in terms of, is there a public hearing on adopting the fees, the answer to that would be no. I don't know.

I'm not sure what that would accomplish. I don't know necessarily coming up there to weight in on how much something costs. They might. But the answer to your question, there is no public hearing.

REP. BELDEN: Thank you.

JOHN MASTROPIETRO: You're welcome, Sir.

REP. RYAN: Any other questions? Thank you.

JOHN MASTROPIETRO: I thank you.

REP. RYAN. Appreciate you coming. Finally, Carol Wilson. Good afternoon. Good morning still I guess here.

CAROL WILSON: Good morning, Senator Prague and Representative Ryan and Members of the Labor and Public Employees Committee. My name is Carol Wilson, and I am the Director of Procurement at the Department of Administrative Services.

I'm here today to testify regarding House Bill 7032 AN ACT CONCERNING THE RETENTION OF JOBS IN CONNECTICUT AND IN THE UNITED STATES. DAS strongly supports the purchase of products and services from companies that are located in the United States, and especially in Connecticut.

And, we continually strive to add more local businesses to our list of awarded suppliers. Current statutory language provides that in awarding a contract, with all factors being equal, we give preference to supplies, material equipment that are produced, assembled and manufacture in the State, and to services originated and provided in this State.

Nearly 67% of our current active contracts and suppliers are based in Connecticut. DAS recognizes that the intent of House Bill 7023 is to assess local companies.

However, we are concerned that this bill will actually have the unintended affect of hindering Connecticut companies from bidding on State contracts, and depriving them of commercial opportunities.

By imposing additional requirements on the bidding process, this bill hurts all Connecticut based companies that make or sell goods that are produced, manufactured or assembled, in whole or in part, outside of the United States as well as Connecticut companies that manufacture or sell goods that are made in the USA, but not in Connecticut.

From small family-owned retailers to Connecticut's largest manufacturers, virtually every Connecticut based company uses some materials or sells some goods that originate elsewhere.

Thus, essentially, every bidder would be required to provide detailed information about various sources of their goods and services [Gap in testimony. Changing from Tape 1B to Tape 2A.]

--for example, under this bill, Bozrah Home & Hardware, which sells lawnmowers and snow-blowing equipment to various towns and state agencies, would have to identify the source of every lawn mower or snow blower, not to mention, every wheel, engine block, gear shift, auger, and blade from which they are made.

Likewise, Norwich Cylinder and Gas, which sells industrial medical gases, as well as welding

and medical equipment to this state and towns, would have to report the origin of those various gases it provides, as well as the source of grinding wheels, hoses, regulators, wires, and other associated equipment.

The administrative burden associated with complying with these requirements would be extremely onerous, especially to Connecticut's small and family owned business, and is likely to act as a disincentive for local businesses to bid on state contracts.

The bidding process would be further complicated by the requirement in House Bill 7032, that State agencies assess the economic impact to Connecticut and residents of this State.

First, it is not clear how an agency would go about determining the economic impact of the contract award. Further, even assuming that agencies would be instructed on what factors should be considered in assessing the economic impact, such analysis would inevitably cause delays in awarding contracts.

Moreover, this attempt to assist Connecticut based companies may well lead to neighboring States to retaliate by imposing their own protectionist measures.

Receiving a preference from the State of Connecticut will not necessarily compensate a Connecticut business that has lost opportunities to sell goods and services to New York, Pennsylvania or Massachusetts.

Section I of House Bill 7032 requires the Governor to review all State contracts and identify any contracts under which state funds are paying for goods manufactured outside of Connecticut or the United States, and services provided outside Connecticut and the United States.

On a purely practical note, this requirement is simply unworkable. Currently, in DAS alone we administer 864 active contracts, which are serviced by 2,023 different suppliers.

In addition, several hundred other contracts are administered by DPW, Department of Transportation, Public Health, Public Utilities Control, Social Services, and others.

Simply reviewing all of these contracts would be a massive endeavor. It is impossible to even to imagine how long it would take to identify where the thousands of goods or services covered by such contracts are performed or manufactured.

In summary, this bill would seriously impair the ability of DAS and other contracting agencies to source and contract for products.

Additionally, this bill is likely to have an unattended detrimental impact on most of Connecticut's own businesses. Thank you, and I'd be happy to answer any questions you may have.

REP. RYAN: Good morning. I am kind of curious about all the hardware stores, of all the towns in the State of Connecticut, why did you happen to pick this one?

CAROL WILSON: We picked examples of your districts. We actually have the data, and I can provide every one of the Members of the Committees on examples, and I encourage you to talk to those businesses to see what effect that would have on them.

REP. RYAN: I would be happy to when I drop off my lawn mower. Do we have any other questions? Any other questions? Thank you. Thank you.

CAROL WILSON: Thank you.

REP. RYAN: And, now that is the elected officials and agency heads portion of the testimony. We are going to go the general public.

We will start with Proposed Senate Bill 931 AN ACT CONCERNING HIRING OF UNDOCUMENTED ALIENS BY CONTRACTORS. We will start with Kia Floyd from CBIA and then followed by Glen Marshall. Good morning.

SB1318
HB6678 HB7314
HB6989 HB7317

KIA FLOYD: Good morning. I wasn't sure if you knew, but I'm actually here to testify on seven bills. So--

REP. RYAN: I see that. Yeah, go ahead. We'll give you a couple of minutes.

KIA FLOYD: Okay. Thanks.

REP. RYAN: Because we have to leave extra time for Senator Gomes to get here.

KIA FLOYD: Yes, I want to move quickly. With regards to Senate Bill 931, I actually don't have a lot to say about this bill, other than that, unfortunately, we generally, we support the legislative intent and purpose because we recognize that there is a real problem, not just in Connecticut, but all over the country, with unscrupulous employers misclassifying their employees as subcontractors, and independent contractors.

Connecticut is one of many States, which is now is aware of the problem, and is trying to devise appropriate solutions to it. However, this particular bill is one that unfortunately we find to be riddled with a variety of problems, that I think are going to make enforcement problematic later.

In light of the federal preemption issue, which John McCarthy testified to earlier, and then a variety of other things regarding like, for instance, the misclassification term, in and of itself, we think that maybe opened to multiple interpretations which would then end up having some innocent and honest employers not knowing whether or not misclassification for this purpose would spill over into the classification for their workers' compensation rates.

That being said, I'd just like to say generally, we support in purpose, but we oppose it in the form that it is written now, and we

would like to reserve the right to come back and discuss with both the Committee and Senator Cappiello who proposed the original bill.

Anything that we can do to kind of get to the bottom of things and make sure that we devise an appropriate plan.

With regards to Senate Bill 1378, again, this is another one I am not going to say a lot about, because I think Chairman Mastropietro aptly stated why the Workers' Compensation Commission feels that this Bill is necessary.

As far as I have been able to tell, Connecticut is one of very few states that actually the usual and customary system of setting, of formulating, I should say, their fee schedule.

Connecticut's fee schedule is among the highest in the nation; and, it in fact, is double what the Medicare fee schedule is in a lot of areas, and triple in areas such as radiology and a couple of other practices.

As long as, and Chairman did give the assurance that there is not going to be any wholesale changes to the underlying fee schedule itself, either upward or downward, then we are overwhelming in supportive of this.

It appears as though the conversion to a more modern and innovative system, which will capture ongoing and evolving technologies in medical practices, is long overdue. So--

REP. RYAN: You did say support.

KIA FLOYD: We did. I'll say it again, support, support, support. In running through the next two bills, I'm actually going to just briefly put on the record for my colleague, Eric George, he had to testify at another hearing at the same time.

These are bills, House Bill 6678 and House Bill 7314. He generally says that CBIA is concerned that these bills envision creating a single payer healthcare system that will be unsustainable in the long term, and will operate outside of Connecticut's small group reform laws.

He goes on in some detail to basically just say it is a bad idea. CBIA is also very concerned that one of the primary funding sources of this would be single payer system or purchasing pool system, is a play or pay healthcare tax that will apply to nearly all Connecticut employers.

And since you have his testimony, you should have, I did submit his written testimony, any questions, let me know and I will follow up with him.

Moving on, the next, the bills that I really came to you about, as I'm sure you know, are House Bill 6989 and then House Bill 7317.

By way of summary, since I testified on House Bill 6989 a few ago when it was first up for hearing, let me just say that even in light of the amendments, which were recently proposed, we still vehemently oppose this bill.

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MATTHEW KATZ: Senator Prague, Representative Ryan and Members of the Labor and Public Employees Committee, my name is Matthew Katz, and I am the Executive Director of the Connecticut State Medical Society.

And I am here today representing the more than the 7,000 physicians and students of the Society, as well as to their close to 30,000 employees to testify in support of Senate Bill 1378 AN ACT CONCERNING THE WORKERS' COMPENSATION MEDICAL PRACTITIONER FEE SCHEDULE.

The Connecticut State Medical Society has worked with Chairman Mastropietro in collaborative effort, to make sure that the proposed revisions to the Workers' compensation fees schedule are favorable to all parties, employers, employees, physicians and the plans themselves.

First, we believe that using the actual Medicare resource based relative value scales as a based unit for determining physician reimbursement under workers' compensation provides a level of normalcy, in comparison to the relative value that services that physicians provide the patient everyday.

In addition, as Chairman had stated earlier, this is simply the methodology, the based units to use, to derive the reimbursement. The reimbursement will come later, and consistent with existing protocols within the state.

We recognize that in year one, the base year, the conversion factor uses a multiplier for the base units, will allow budget neutrality.

As long as the appropriate adjustments are made consistent with the increases that were originally proposed, we see no problem with converting to the proposed system in this calendar year. We simply don't want to be used by the plans as a way to reduce payments to physicians.

Secondly, we believe in an effort to recognize increase costs in medical care, this bill proposes yearly increases, and the fee schedule tied to consumer prices industries.

Though it must be pointed out that a more appropriate way of increasing or adjusting reimbursement is associated with the medical economic index that relates directly to the practicing medicine, and the goods and services that the physician must obtain in order to provide those services.

We believe that Senate Bill 1378 provides a level of transparency necessary for physicians to fully understand what they're being paid.

This bill not only provides transparency and fee schedules, but as assigned by the American Medical Associate, current procedure terminology codes for the services, but also institutes a standard by which all Workers' compensation plans must reimburse physicians.

This bill proposes using the CMS, or Centers for Medicare-Medicaid Services, correct coding initiative guidelines.

While we recognize that this is a national standard tied to the Medicare program, we ask that AMA CPT codes themselves be considered, as those are what the physician must adhere to on a daily basis.

Again, we ask for your support for Senate Bill 1378, as a cause for reconfiguration for the Workers' compensation Fee Schedule, and associated policies to ensure that there is a full and absolute transparency and fairness in the payment to physicians for the provision of medical care to patients within the Workers' compensation system. Thank you very much.

REP. RYAN: Thank you. Do we have any questions for Mr. Katz? We appreciate you coming in.

MATTHEW KATZ: Thank you very much.

REP. RYAN: That brings us to the next bill, which is Senate Bill 1379 AN ACT CONCERNING STATE POLICE INSPECTIONS OF VEHICLES AT WEIGH STATIONS.

And we have the person to speak is Steve Rief, and he will be followed by Carlo Guerra. And it looks like you are all coming up together, okay. Mr. Guerra, isn't it Guerra.

CARLO GUERRA: Guerra, yes, Sir.

REP. RYAN: Okay.

CBIA

Connecticut **Business&Industry** *Association*

Testimony of Kia D. Floyd
Assistant Counsel, Labor and Employment
Before the Committee on Labor and Public Employees
March 8, 2007

S.B. 1378 AAC The Workers' Compensation Medical Practitioners' Fee Schedule (Support)

Good Morning Senator Prague, Representative Ryan and other members of the Committee. My name is Kia Floyd and I am an Assistant Counsel for Labor & Employment matters for the Connecticut Business and Industry Association (CBIA). CBIA represents more than 10,000 companies throughout the state of Connecticut, ranging from large corporations to small businesses. The vast majority of our companies employ fifty (50) or fewer employees, many of whom make up Connecticut's workforce. I am here today to speak on behalf of all of our member companies. CBIA generally supports any labor and employment related legislation that does not increase the costs of doing business in the state or unreasonably increase administrative burdens on employers in dealing with employment and workplace issues. Inasmuch as S.B. 1378 appears to be such a measure and is revenue-neutral, we support this bill.

S.B. 1378 permits the Workers' Compensation Commission ("WCC") Chairman to establish fees for workers' compensation medical providers using the Medicare resource-based relative value scale system. The Connecticut workers' compensation fee schedule was implemented in 1994 and it generally covers all physicians' professional services. Updates to fees are made by the Chairman in consultation with an advisory board, but the overall fee structure has not been significantly changed since 1994, primarily because Connecticut has an extremely generous fee schedule which is well above the national average. According to the *Workers' Compensation Research Institute,* Connecticut fees schedules provide more than double that which Medicare provides in many areas such as radiology and general medicine and it pays almost triple that of Medicare surgery fee levels. The WCC currently uses the UCRP (Usual, Customary, Reasonable and Prevailing) method of calculating medical provider fees, which pays every provider based on where they fall in relation to the seventy-fourth (74th) percentile of fees charges in 1994. Unlike the WCC, most medical providers, insurance carriers, and third-party reimbursement organizations use the Medicare resource-based "Relative Value" system, which calculates providers based on their years of experience, medical specialties, specialized training and other factors.

On its face, **S.B. 1378** appears to simply authorize the WCC to convert its existing UCRP system to the relative value system with no fiscal impact on the state's overall system or administrative costs. Presuming that the new system will not result in any significant changes (upward or downward) to the medical fees, then it would appear to benefit both providers and payers whose business depends upon the fee schedule. Insofar as most organizations in the healthcare industry rely upon the Medicare "relative value" system, Connecticut appears to be one of few remaining states that still abides by the antiquated "usual and customary" practice. Therefore, converting to the Medicare system seems to be long overdue and CBIA supports this measure.

Thank you for the opportunity to testify.

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Connecticut Workers' Compensation Commission

Testimony presented at March 8, 2007 Public Hearing

Before the Labor Committee

By Chairman John A. Mastropietro

Re: Senate Bill No. 1378 An Act Concerning the Workers' Compensation Medical Practitioners Fee Schedule.

Good morning Senator Prague, Representative Ryan, and Members of the Labor Committee.

Thank you for the opportunity to discuss the Commission's proposed legislation, Senate Bill No. 1378 An Act Concerning the Workers' Compensation Medical Practitioners Fee Schedule.

- This proposed legislation concerns a simple issue that appears to be more complex than it really is. What we are seeking is to amend the methodology for the computation of the Workers' Compensation medical fee schedule. We believe SB 1378 provides us with the authority we need in order to make our medical fee schedule consistent with current medical payment practices.
- Attached is an outline of reasons explaining why the statutory provisions enacted in 1993 regarding Workers' Compensation medical fee schedules are no longer applicable. I believe the attached outline will give you all the information necessary to understand the nature of our technical request to amend the Workers' Compensation Act.

A. *Objective of the Workers' Compensation Act*

Provide Medical Care to Injured Workers

When the legislature enacted the Workers' Compensation Act 94 years ago, one of its objectives was to provide medical care to injured workers. Subsumed within the objective was the promise that an injured worker would receive quality medical care so as to enable them to return, as much as the advancement of our medical arts permitted, to the physical capacity he or she enjoyed prior to the injury and ultimately a return to work.

Connecticut's Act has a proud history of being able to provide injured workers with an assurance that their injuries will be treated with the same skill and attention that would attend to anyone sustaining a similar injury.

B. *Brief History of Medical Fees*

1. Before 1993

Through most of the Act's history the medical fee to which a physician was entitled was "limited to the charges that prevail in the same community or similar communities for similar treatment of injured persons of a like standard of living when the similar treatment is paid for by the injured person." Understand that at the time of the Act's inception doctors were paid directly by a patient or through charity. Former Chairman John Arcudi summarized the Act's authorization of fees as the following "Sec. 31-294 limits the employer's pecuniary liability for such services to a community standard and not to the measure a grateful Midas might employ in rewarding his healer." Bowen v. Stanadyne, Inc., 232 CRD-1-83 (June 19,1984)(emphasis ours)

2. 1993 Workers' Compensation Reform

As you may recall in the late 80's and early 90's on a national level we faced the growing escalating costs of medical care which put a serious drain on our economy. Attempts were made at a total reformation of our nation's health care and overhauling the amounts and methods by which physicians were paid. The health insurance industry and the physicians came to accept that a doctor could no longer expect to charge a fee and be paid without some justification of how the fee amount was determined. By 1993 medical fee schedules were being incorporated into the world of group health insurance as a means of controlling costs and providing physicians with acceptable fees.

By 1993 the medical fee structure, or lack thereof, which existed under the Workers' Compensation Act did not reflect the real world of medical economics and was a contributor to escalating Workers' Compensation costs. Thus, in 1993, our legislature empowered the Chairman of the Workers' Compensation Commission to

develop a fee schedule. As you can imagine the proposal of a medical fee schedule for care provided to injured workers was a significant change from the former methods employed to determine fees.

The medical fee schedule that was enacted was based on the state of medical economics in 1993, in which doctors still might expect payment on a pro rata portion of the fee charged. Since 1993, in the vast majority of cases doctors are paid on the basis of an established relative value system. The major player in medical economics is Medicare. At almost the same time that we were adopting our present fee schedule, Medicare changed its payment structure to a RELATIVE VALUE SYSTEM. Under that system the fee paid to a doctor is based on the relative value of the procedure itself taking into account the time and skill necessary for the particular medical treatment as well as the expense associated with a medical practice i.e., administrative overhead and legal liability.

C. Where we are today

Outmoded data collection and methodology

In short, we need to update the methodology by which we calculate our medical fee schedule. Currently our medical fee schedule requires us to calculate the fee schedule on the basis of amounts charged by physicians. Basing a medical fee schedule on such data is now outmoded and archaic. Utilization of charge data to determine medical fees does not reflect current medical payment standards. Thus, it is our hope that by changing the methodology to calculate the fee schedule we can lessen the costs associated with its annual production.

Using a fee schedule methodology which is consistent with that used on a larger scale will also help us to see how we compare with other states and thereby allow us to remain competitive and maintain Connecticut as a good place to work and do business.

D. Fee Schedule Methodology

1. Current methodology for establishing fees

CGS §31-280 and administrative regulation §31-280-3(b) set forth the methodology to be used by the Chairman of the WCC to establish a fee schedule for payment to medical providers for services rendered to injured employees. The current methodology relies on there being a data base consisting of current charge data (that being the amount a physician charges for a particular service or procedure). The fee schedule is established at the 74th percentile level of those statewide charges. Due to changes over the last decade as to the manner in which health care services are billed and paid, most significantly due to the implementation of preferred provider networks and managed care contracts, charge data is no longer a reliable basis on which to calculate medical fees. As we have outlined above our current methodology is no longer workable. Because of this we are seeking a

change in subdivision (11) of subsection (b) of section 31-280 to allow the Workers' Compensation Chairman to utilize the Medicare methodology to calculate fees paid to Workers' Compensation medical providers. Such a change in methodology will allow us to develop a fee schedule that is based on the largest and most accepted relative value system, i.e., the Medicare system

2. Proposed Methodology set out in Senate Bill No. 1378

As noted above, the Medicare value system is a relative value system. For those who would enjoy some greater detail, the Medicare value system is more correctly identified as a Resource-Based Relative Value Scale (RBRVS) in which medical services are ranked according to the relative cost of resources to produce the service. Medicare uses three components to calculate resource costs and therefore the relative value (RVU) of each medical service: 1) physician work (55%); 2) practice expense (42%); and 3) professional liability insurance (3%). The Medicare fee is determined by multiplying the total relative value unit (RVU) of a particular medical service by a conversion factor. The RBRVS methodology is familiar to and accepted by all physician practices due to Medicare being the largest payer of medical services in the nation.

In transitioning to this new methodology it is our intent to not only remain revenue neutral presently, but to establish conversion factors that will allow us to maintain fees at a level which reflects the unique circumstances inherent in the delivery of medical care to the injured worker. The task of determining appropriate fees for new procedures and for those procedures that have changed to reflect current technology will be accomplished more equitably and efficiently by relying on the methodology already established by Medicare.

II.Conclusion

A. Enactment of SB 1378 will:

1. Allow the Workers' Compensation Commission to establish a medical fee schedule that more closely approximates the methods used in the current medical marketplace to determine the appropriate level of compensation to physicians.

2. Assure that physicians are fairly compensated thereby keeping the experienced doctors in the system and providing injured workers with access to an established quality level of medical care

3. Control costs and maintain Connecticut as a good place to work and do business.

4. Allow for the production of a medical fee schedule less expensively and to have a basis of comparison with other jurisdictions.

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Connecticut State Medical Society Testimony in Support of Senate Bill 1378 An Act Concerning the Workers' Compensation Medical Practitioner Fee Schedule
Presented to the Labor and Public Employees Committee
March 8, 2007

Senator Prague, Representative Ryan and Members of the Labor and Public Employees Committee, my name is Matthew Katz and I am the Executive Director of the Connecticut State Medical Society (CSMS) and I am here today to testify in support of Senate Bill 1378 An Act Concerning the Workers' Compensation Medical Practitioner Fee Schedule

The CSMS has worked with Chairman Mastropietro in a collaborative effort to make sure that the proposed revisions to the Workers Compensation fee schedule are favorable to all parties, employers, employee and physicians.

First, we believe that using the actual Medicare Resource Based Relative Value Scale (RBRVS) values and not the Medicare Fee Schedule rates as the base unit for determining physician reimbursement under workers compensation provides a level of normalcy in comparison of the relative values for the services that physicians provide to their patients. In addition, for most physicians, the RBRVS values are well known and respected, as they are developed through a rigorous process involving the nation's physicians and then reviewed and eventually published by the Centers for Medicare and Medicaid Services (CMS) for use as the integral part of the Medicare Fee Schedule.

We recognize that in year one, the base year, the conversion factor used as the multiplier of the base units, or relative value units, will allow for a budget neutral transition. As long as the appropriate adjustments are made consistent with the increases that were originally proposed for 2007, we see no problem in converting to this proposed system in this calendar year.

Second, we believe, in an effort to recognize increases in the cost of medical care, this bill proposes yearly increases in the fee schedule tied to the Consumer Price Indexes (CPI). Though it must be pointed out that we believe a more appropriate index in looking at medical care expenditures and cost may be the Medical Economic Index (MEI) as it relates more directly the increases in the cost to provide medical care by physicians, we fully support a system, such as what has been proposed, that recognizes that there are

yearly increases in costs that physicians must assume in providing the medical care necessary for their patients.

The MEI is a measure of medical inflation faced by physicians with respect to their practice costs and general wage levels. The MEI includes inputs used in providing physicians' services, such as a physician's own time, non-physician employees' compensation, rents, medical equipment, and other physician practice related administrative and clinical expenses. The MEI measures year-to-year changes in prices for these various inputs based on appropriate price proxies while the CPI compares prices paid by urban consumers for a representative specific set of goods and services.

Having made that statement, we believe that Senate Bill 1378 provides the level of transparency necessary for physicians to fully understand what they will be paid for the services that they provide associated with workers compensation plans. This bill not only provides a transparent fee schedule for which rates are assigned by the American Medical Association's (AMA) Current Procedural Terminology (CPT) codes for the services and procedures provided by physicians, but it also institutes a standard for which all workers compensation plans must abide when reimbursing physicians.

This bill proposes using the CMS Correct Coding Initiative (CCI) guidelines when evaluating payment for combinations of services and procedures provided by physicians on the same date of service. The CMS developed the CCI to promote what it referred to as "national correct coding methodologies" and to "control improper coding leading to inappropriate payment" associated with the provision of medical procedures and services. The CMS developed its coding policies based on coding conventions defined in the AMA's CPT book, in addition to certain national and local policies and related edits, as well as certain coding guidelines developed by national medical society societies. CMS also evaluated standard medical and surgical practices and performed a review of current coding practices.

While we recognize that CMS, in its Medicare Part B program, uses CCI when evaluating and paying for physician services and procedures, physicians must and do comply with the codes, guidelines and conventions as clearly presented in the AMA CPT code book. Therefore, we believe that it is more appropriate to compel the workers compensation plans that pay for medical care provided by physicians to simply adhere to and abide by these same AMA CPT codes, guidelines and conventions.

Again, we ask for your support of Senate Bill 1378 and its call for reconfiguration of the workers compensation fee schedule and associated policies to ensure that there is full and absolute transparency and fairness in payment to physicians for the provision of medical care to patients within the workers compensation system.

Thank you