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HOUSE**

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amended by House Amendment Schedule "A" was passed.)

DEPUTY SPEAKER GODFREY:

The bill as amended passed. The House will stand
at ease.

(Chamber at ease.)

DEPUTY SPEAKER RYAN:

Will the Chamber please come back to order. Are
there any announcements or introductions? And these
aren't the kind of announcements you might that want
to be making right about now.

Representative Gentile of the 104th.

REP. GENTILE (104th):

Thank you, Mr. Speaker. Just for an
announcement, the Planning and Development Committee
will meet tomorrow at 10:30 a.m. outside the Hall of
House.

DEPUTY SPEAKER RYAN:

Will the Clerk please call Calendar Number 404.

THE CLERK:

On Page 24, Calendar 404, Substitute for House
Bill Number 5545, AN ACT CONCERNING FINANCIAL

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LIABILITY FOR AMBULANCE SERVICES, EVIDENCE OF
COLLATERAL SOURCE PAYMENTS AND EVIDENCE OF BILLS FROM
TREATING HEALTHCARE PROVIDERS, favorable report by the
Committee on the Judiciary.

DEPUTY SPEAKER RYAN:

Representative Fox of the 146th, you should have
the floor, sir.

REP. FOX (146th):

Thank you, Mr. Speaker. I move the acceptance of
the Joint Committee's favorable report and passage of
the bill.

DEPUTY SPEAKER RYAN:

The question is acceptance of the Joint
Committee's favorable report and passage of the bill.

Will you remark?

REP. FOX (146th):

Thank you Mr. Speaker. This bill has several
parts. The first part deals with ambulance providers
and it confirms that ambulance providers can seek to
collect from those who they provide their services to.

The second section deals with the way that
collateral source payments are addressed. Those are
the payments that are addressed post-verdict after a
trial in a personal injury action involving medical

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expenses.

The third section then would also deal with -- with that. And with respect to that section, Mr. Speaker, the Clerk has an amendment, LCO Number 4477, I ask that it be called and that I be allowed to summarize.

DEPUTY SPEAKER RYAN:

Will the Clerk please call LCO 4477, which will be designated House Amendment Schedule "A".

THE CLERK:

LCO 4477, House A offered by Representatives Fox and Rowe.

DEPUTY SPEAKER RYAN:

The Representative seeks the Leader of the Chamber to summarize the amendment. Do I hear objection to summarization? Is there objection? Hearing none, Representative Fox, you may proceed with summary.

REP. FOX (146th):

Thank you, Mr. Speaker. What this does is it just adds a sentence to the -- to confirm that the defendant in a personal injury action may contest the medical expenses that are billed by a treating physician in a personal injury matter. And I move

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adoption of the amendment.

DEPUTY SPEAKER RYAN:

The question before the Chamber is adoption of House Amendment Schedule A. Will you remark on the amendment?

Representative Fox.

REP. FOX (146th):

That summarizes the amendment, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Will you remark further on the amendment before us? Will you remark further on the amendment before us?

Representative Hetherington of the 125th.

REP. HETHERINGTON (125th):

Mr. Speaker, I rise to oppose the amendment which would be -- in this -- in two respects that deal with the admissibility of evidence of collateral source payments. When a -- when an injured party brings his case -- his or her case to the jury, the jury is permitted to see the evidence of economic damages, that is what the -- what the patient has suffered in terms of what a doctor or therapist or other medical professional has charged.

The reality, of course, is that -- that in many

cases what those original charges were were never paid because they're covered by insurance and the insurance companies generally do not pay the full amount, they pay a lesser amount that's recognized by everyone concerned, and usually that's the end of it and the patient pays no more.

So, in fact, the -- the amount that goes -- that actually is paid by the -- by the injured party is much less than what would appear from the bills. Nevertheless, the jury gets to see that, it -- it raises the prospect of the Plaintiff being compensated for -- for charges that were never actually paid by the Plaintiff. And it magnifies the overall perception of the injury because it makes it look like they were -- there was much more paid in medical costs than there actually were.

Obviously anybody looking at an incident that produced a \$10,000 injury is going to be much more impressed than medical bills for \$1,000 or \$5,000. So the price where the collateral source is accurately measured, that is in the amount actually paid is at the time that the judgment is entered where the collateral source hearing is heard and the judge -- and the judge has an opportunity to -- to consider the

actual amount paid in terms of reducing the judgment.

But by that time a lot of the -- the damage has been done because the trier of fact already has seen the what appears to be huge medical bills that, in fact, were not actually paid. The effect of this amendment and the bill, if it becomes -- becomes law, is to further institutionalize that practice.

Again and I close with just this observation that if this is a case, the jury, the trier of fact, the jury in most cases, gets to see a -- a measure of medical costs that is not the true medical costs because it does not show the reduction that takes place because of the reductions in insurance company payments and so forth. And we all know that the actual amount paid is much less, in most cases.

So what's reasonable is that the trier of fact gets the actual amount, the actual amount paid, not the amount that appears on paper. So I think institutionalizing that practice is -- is bad. And it's fine that the judge gets a chance to reduce the judgment by the amount of the actual collateral source payments, however, by that time the damage as I say has already been done because the -- the trier of fact has already gotten the inflated amount. So for that

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reason, I oppose this and I urge its rejection. Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, sir.

Representative Smith of the 108th.

Will you remark further on the amendment before us? Will you remark further on the amendment before us? If not, I will try your minds, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER RYAN:

All those opposed, nay.

The ayes have it. The amendment is adopted.

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

THE CLERK:

The House of Representatives is voting by roll call. Members to the Chamber, the House is taking a roll call vote. Members to the Chamber, please.

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DEPUTY SPEAKER RYAN:

Have all the members voted? Have all the members voted? Will members please check the board to determine if your vote is properly cast. If all members have voted, the machine will be locked and the Clerk will take a tally. Will the Clerk will announce the tally.

THE CLERK:

House Bill 5545 as amended by House A.

Total number voting 142

Necessary for adoption 72

Those voting Yea 105

Those voting Nay 37

Those absent and not voting 9

(On a roll call vote, House Bill No. 5545 as amended by House Amendment Schedule "A" was passed.)

DEPUTY SPEAKER RYAN:

The bill as amended passes.

Will the Clerk please call Calendar Number 201.

THE CLERK:

On Page 8, Calendar 201, House Bill No. 5258, AN ACT PERMITTING THE POSSESSION OF REINDEER YEAR ROUND, favorable report by the Committee on the Environment.

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SENATOR LOONEY:

Thank you, Madam President.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On Page 19, Calendar 484, substitute for House Bill Number 5545, AN ACT CONCERNING FINANCIAL LIABILITY FOR AMBULANCE SERVICES, EVIDENCE OF COLLATERAL SOURCE PAYMENTS AND EVIDENCE OF BILLS FROM TREATING HEALTH CARE PROVIDERS. It's amended by House Amendment Schedule "A," and a favorable report of the committee on Judiciary.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President.

Madam President, I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with the House.

THE CHAIR:

The motion is on acceptance and passage.

Will you remark, sir?

SENATOR COLEMAN:

Yes, I will. Thank you, Madam President.

This bill primarily seeks to do three things.

And first, it intends to make clear that anyone -- anyone who receives medical care or transportation services from an ambulance service is liable to that ambulance service for the cost of that care and service, even if the person receiving the care and services doesn't consent or doesn't

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agree with the provision of that cost and service.

And secondly, the bill as far as personal injury and wrongful death cases are concerned, the bill requires that the total medical bill of the health care provider is admissible as evidence of the reasonable and necessary cost of the medical care provided to the claimant.

And lastly, the bill -- the bill makes clear that the total medical bill is admissible in cases, not only those filed on or after October 1st, 2012, but that procedure would be available to those cases which are pending even prior to October 1st, 2012.

I'll urge passage of the bill, Madam President.

THE CHAIR:

Will you remark?

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Madam President.

I stand in support of this particular proposal. I think that it would be helpful regarding litigation matters. I think it would help collateral source situations and make sure that when damages are calculated that they're calculated accurately and fairly for plaintiff should they be moving forward with a cause of action.

Thank you, Madam President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

Madam President, if I can, to Senator Coleman.

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Please proceed, sir.

SENATOR FASANO:

Senator Coleman, under this new bill before us, it's my understanding that this bill does not create a presumption that the billed amount is reasonable, usual and customary costs of medical -- medical care. Is that an accurate statement?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Madam President, through you to Senator Fasano.

I think that that is an accurate statement.

There is no creation of presumption. What the bill -- meaning the piece of legislation that we're considering, does is to make the -- the medical bill admissible as evidence, merely evidence of the reasonable and necessary costs of medical care that was provided.

Through you, Madam President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

Madam President, it's my understanding in lines 80 through 86, there's language that says the calculation of the total amount bill -- in quotation marks, this doesn't preclude the defendant from offering documentation or witnesses as to the reasonable usual customary medical costs of certain medical care. Would that be an accurate statement?

Through you, Madam President.

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THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

That would be an accurate statement, Madam President.

I think the -- the practice is to allow the medical bill as long as it's signed by the health care provider to serve as a business entry. So it would be an exception to the hearsay rule and could be admitted into evidence without the presence of the medical or the health care provider.

But that does not preclude either party from calling as a witness or presenting any other evidence that would be probative on the issue of the reasonableness of the medical care -- the cost of the medical care that was provided.

Through you, Madam President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

In the -- there is an effective date that says when it is effective in pending cases. However, just for legislative intent, the effective date of the bill will not change any rulings already made in pending cases regarding this issue.

Would that be a correct statement?

Through -

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Again, Madam President, I believe that is a correct statement.

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In any cases where the court has already ruled on the issue of the reasonableness of -- the reasonableness and the necessity of the costs of the medical care, that ruling would stand. It would not be effected by the passage of this bill or the effective date of this bill.

Through you, Madam President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

So in no way is this going to retroactively -- with respect to already -- to any decisions of evidence, if we may, have already ruled upon by the court.

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

That is -- that is the case.

That's just a correct statement, Madam President.

Through you to Senator Fasano.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President. And I thank Senator Coleman for his answers. And I look forward to voting on the bill. Thank you.

THE CHAIR:

Thank you.

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Will you remark?

Senator Markley.

SENATOR MARKLEY:

Thank you, Madam President. Through you, if I may, a question to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR MARKLEY:

If I understanding in reference to the ambulance service section of it. I don't understand why we would want to hold somebody responsible for services that they did not consent to. It seems like the very fact of their failure to consent would be grounds for them not to be liable. Can you explain what the intent is?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President.

In my explanation I should have probably more clearly indicated that it is emergency medical care or emergency transportation that is in question.

And when one receives that emergency care or emergency transportation there is contract liability that attaches to the person that receives the benefit of that emergency service, emergency care.

And that would be true whether the person consents to that care or is even conscious to consent to that care or agrees with the care and the service.

Through you, Madam President.

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Senator Markley.

SENATOR MARKLEY:

Thank you, Madam President, through you.

And if the person were conscious and consciously refused his consent, but was provided the care anyways, would he still be liable?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

If the -- if it was an emergency situation and the person were in need of emergency care or emergency transportation, yes, that person would still be liable.

Through you, Madam President.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Madam President.

I will not ask any further questions of Senator Coleman.

But let me tell him a little story about an experience that I had on this score which makes me opposed and rather -- rather decidedly opposed to this bill.

I was -- I -- I -- outside of politics, I'm a fan of music and art.

I went down one morning about eight years ago to the -- to New Haven to hear a recital at the Yale British Art Gallery. A performance of a -- of a -- on a curious antique instrument called a serpent, a -- a -- a leather covered wooden instrument in the shape of a snake that was used in the 17th and 18th century, not played anymore.

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And running late as I often do, as I think all Senators or even former Senators perhaps are entitled to do, I grabbed, on my way out the door, a container of grapes that I had in the refrigerator and ate them in the car while driving down, but without removing my eyes from the road, obviously.

When I got to New Haven and parked my car and looked in the container, I real -- I discovered that the grapes were covered with a fine white mold, but I -- I didn't think they were the freshest grapes that I had ever eaten, but they weren't too bad. And when I saw that, I thought, "Either I'm going to die or I'm not, but there's nothing much I can do about it I might as well go and hear the -- hear the recital."

so I went over to the British Art gallery and I can still remember the man walking out with this rather grotesque looking instrument, the serpent and a kind of a chill passing over me. And he decided to open his recital by demonstrating the sound or the instrument by playing the (inaudible) in -- in 12 different keys over and over again -- (singing) -- you know, the (inaudible) and key after key with this sour tuning.

And pretty soon, I realized my head was spinning. And at a certain point I thought I'd better get up out of here before I fall over. And I must tell somebody that I ate moldy grapes and I have suffered moldy grape poisoning. So I grabbed a guard in the museum and told him my story and asked him to get a glass of water and sat down and looked at a Turner and tried to collect myself.

I wasn't feeling sick enough to go to the hospital. But I wasn't feeling well enough to go back on the streets of New Haven. Well, a few minutes later the guard told me and came to me and said that he had told his superior and his superior had told his superior and they had called an ambulance for me.

And I said, "I don't need an ambulance, I don't want an ambulance, I don't want to go anywhere in an ambulance." And he said, well it's out of my hands."

Certain number of minutes later, a stretcher and five burly men arrived from the ambulance service and said, "We're here to put you in the ambulance." And I said, "I don't

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want to go in the ambulance. I don't need to go in the ambulance. I don't want to go to the hospital. I just want to sit here and look at a painting for a few more minutes." And the guy, who was a very decent fellow, but he said in a rather -- in a rather definite way, "Once we arrive, you get in the ambulance."

And I wasn't in a mood or a condition to give him much of a fight. So I got in the ambulance. Fortunately, when I got into the ambulance, there was a delightful young woman who then took over the -- the operation for the rest of the story.

And I have a -- I had a very pleasant drive in her company, refusing to let her do anything to me, but otherwise, enjoying the conversation. And when I got to the hospital, I said, "I don't want to be admitted to the hospital." And they said at the admission desk, "If you arrive in an ambulance, we have to admit you to the hospital."

So I was admitted to the hospital where I then continued to refuse to have anyone do anything to me. By then I wasn't even feeling bad anymore.

Incidentally, at every point, I kept telling people, "I've been poisoned with grape mold, so if I pass out, please remember that." Nobody had the slightest interest in that part of it. They wanted to do tests. They wanted to poke me, they wanted to prick me, they wanted to do things, they wanted to transport me. They did not want to listen to me.

Finally, I said -- a physician's assistant came and I said, "I will not take -- I don't give you any authorization to give me any tests, to any examination, to take any blood, to do anything to me at all." And after attempting to bully me for a few minutes, he finally left the room.

At a certain point thereafter a doctor came by and I explained what happened and he said, "Yeah, it was probably the grape mold." And -- and at which point, incidentally, I thought the hospital -- the hospital made no effort to -- having -- having put sensors and everything on me, they just let me pick everything off myself and find my way back out of the hospital back down to the street.

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Of course, a certain number -- a certain number of weeks later, I got a bill from the ambulance company for transporting me to the hospital. And I told them this story and I subsequently told this story repeatedly to people from the hospital to bill collectors to lawyers.

And I wrote the story up in such good form that I incorporated it into a short story that I published subsequently. It was a -- it became kind of a -- a -- a narrative incident that was necessary to -- to tie together some sections of it.

But let me say, I couldn't have an experience better designed to convince me that we should not pass a law that says that a person that does not give his consent for a transportation in an ambulance should nonetheless be held liable to it. Because my experience is it doesn't matter whether you give your consent or not, the ambulance company is going to transport you.

And I suppose if the law had been effect -- in effect, I might have ended up having to pay the bill anyways. I said to them, "As far as I'm concerned, Yale called for the ambulance, I didn't call for it." And I didn't feel morally obligated to pay it. And I -- it ultimately they kind of gave up on it because I argued it.

But let's say that's a personal experience that will convince me to vote emphatically no on this bill.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

If not, Mr. -- Senator Witkos.

SENATOR WITKOS:

Thank you, Madam President.

If I may, just a couple questions I -- on the bill.

This is one of the heaviest -- at least, in my opinion -- one

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of the biggest lobbyist bills out there and I -- I didn't quite understand where the two sides are coming from and how we got to where we are. And I thought as I was walking back from bringing my guest out to his car that there was a compromise. And I'm not sure if that's the case.

So through you, Madam President, to Senator Coleman, was there a compromise reached in the language that's before us between the two parties?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President.

To Senator Witkos, I am not aware of any compromise. What's before us, I believe, is contested by one side.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Madam President.

So I guess I'm going to ask -- give a hypothetical and you tell me if I'm correct in the way I'm thinking about what -- what this bill does.

So somebody goes -- and I guess it's particularly towards an ambulance ride; is that correct?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR WITKOS:

is that one of the areas of contention? Through you.

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THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

That is a section of the bill before us. I'm not sure that that section is the section that I was referring to when I said that there was some issue or challenge or contest going on.

I was referring to the whole issue of medical bills and the application of the collateral source rule.

That part of the bill I know is contested. I -- I don't know that the ambulance part of the bill is contested.

Through you, Madam President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you.

So am I to understand what happens is somebody -- if they have to, they take a ride to the hospital whether it be by request of the person by dialing 911, "I'm injured" or "I'm sick. I need a ride to the hospital." And an ambulance comes and away they go.

Or they're involved in a motor vehicle accident and the police call and they say, "You need to go to the hospital" or you're in a doctors' office and an ambulance is called and they say, "We're shipping you off to the hospital." So however the - the patient gets there, if it's not through their own ride that they've arranged and they go by ambulance, that's billed at a -- a certain charge.

And is the -- the -- the bill go towards -- I -- I guess -- for example, the bill comes out \$600 for an ambulance ride. Insurance covers \$400 for the ride. So the patient would have to be responsible for \$200. If they pay it -- I'm sure they'll get a bill and if they don't,

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sometimes it's written off.

What happens in that scenario that we're trying to accomplish with the bill that you can only bill for the 400 because that's all the insurance company paid or do you bill for the whole 600 and there's the 200 still in question?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President.

Under the bill you would bill for the entire 600.

Let me rephrase just a little bit. At trial -- if there was -- was a trial -- if it was -- if this were a personal injury or wrongful death case, at trial what would be admissible would be the total bill of \$600 as evidence of the reasonable and necessary costs of medical care.

The insurance company or the defendant would have the opportunity to present testimony or some other evidence to controvert the total bill.

And at some point, during the collateral source proceedings, which is after a determination of liability has been reached, evidence of insurance or some sort of a negotiated settlement regarding the payment of the bill, whereby the doctor, or in this case, in your example, the ambulance company accepts less of a payment, would be used, whatever that amount of payment or that settlement or the insurance coverage would be used to reduce the \$600.

So that amount of insurance coverage or the amount that was actually accepted by the ambulance company would be subtracted from the total bill.

Through you, Mr. President.

SENATOR WITKOS:

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Thank you, and through you, Mr. President.

Would -- who would most likely bring these suits to -- to court? Would it be the patient because of an issue that they had with the care possibly or would it be predominately somebody's estate or family member because the person died? Or would it be a hospital for some unknown reason? Who -- who is the main person that would be seeking a -- a court case?

Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President, and through you to Senator Witkos.

In the case of a personal injury matter, it would be the injured party, it would be the plaintiff in the case.

In the case of a wrongful death matter, it would more than likely be the estate of the decedent that would be the plaintiff.

Through you Mr. President.

THE CHAIR:

Thank you. Through you.

If the -- if it's a case of the injured party, is it done generally if there's not a negotiation or an agreement between the insurance companies for, I guess, the actual costs of the medical expense?

I can understand taking something to court for pain and suffering because how do you quantify it, a dollar figure on that. Maybe -- I'm not a lawyer -- maybe there's a schedule that depending on your injury and you get X percent of whatever that is.

But normally don't you sue your insurance company or the insurance company pays that off or there's some

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negotiation with the insurance company to settle whatever the law suit is?

Through you Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you Mr. President.

That may very well be the case. And that may be the procedure.

But the issue at that juncture in the trial is what is the reasonable and necessary costs of the medical care that the injured party received. And this bill merely says that evidence of what is reasonable and necessary medical care is the bill that is provided by the health care provider, whether it's insure-- a -- a physician or some other health care provider.

Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

So does -- does the evidence of, I guess, the portion that would be written off, is that entered in to the record also?

So in -- in the example I gave you with the -- with the ambulance ride, you're billed at \$600. The insurance company says "We pay -- cover \$400." They may try to recoup the other \$200 to the patient but, you know, really, \$400 is the cost because and then they just write it off and they don't bring the injured party to court to pay the extra \$200 because they just don't.

What -- I guess I'm having a difficult -- reconciling that \$200 in my example using that dollar figure if the reasonable cost is 400 or is that just negotiating because that's what the insurance company say that's all we're

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paying.

Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I guess the significance of -- of the bill is that it is used in the calculation of the determination of economic damages. And economic damages may be not only whatever current medical attention that the injured party received or -- but also, there may be future medical expenses that may be incurred.

And I guess the rational -- certainly on the part of the plaintiff's attorney -- would be that the better measure of whatever future reasonable and necessary medical care the injured party would receive would be best based on the bill.

You don't know that there is going to be any insurance coverage anywhere down the road. You don't know that there's going to be any negotiated settlement anywhere down the road. So as far as the perspective of the plaintiff's attorney is, I'm sure it would be that the best evidence of what that medical cost would be would be the actual bill that the plaintiff received for the treatment and service that the plaintiff received.

Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. And through you, Mr. President, if -- and I guess I'll use an automobile accident.

I'm involved in an automobile accident. I'm the patient or will be the plaintiff. And I go to the hospital, I have surgery, broken bones.

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And later on down the road I don't know what my -- what my treatment may be as far as physical therapy and rehab. But I -- I -- how do I use the bill for the ambulance ride, how do I use the bill for if I have to have a steel rod placed in my arm that I want to bill that out for something later on when I probably won't have anything to do with it other than the rehabilitation part?

I mean, is that -- is that -- is the rehabilitation part for future discomfort, I guess, if you will call -- what's the legal term for that?

Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Well, I guess what I was talking about was the future medical care. You may be talking about pain and suffering or something else.

But I think in the determination of whatever future medical costs the injured party would incur down the road would probably be best reflected on -- best reflected by the bill that the plaintiff received for whatever medical care and services were -- were provided.

Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. Through you, Mr. President.

Is there ever an -- an opportunity where the award says that you're -- we're paying you whatever the dollar amount is based on -- whatever. And going forward if you need any rehab or nursing home or assisted care, that's built into it without a dollar amount?

I mean, why would we put a dollar cap or put a dollar figure

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in there if with the rate of health care growing so fast that it probably wouldn't be enough 10 or 15 years down the road? They don't make the awards so that it's provided for that specific type of care?

Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Well, as far as my understanding is concerned, they don't make awards in that manner.

Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. Then I guess, through you, Mr. President, how -- how are those awards done?

Give me a typical case -- again, I -- I -- I'm to a lawyer, never been in the courtroom, never had -- luckily, knock on wood, I've never had the opportunity -- or any of my family members to file a suit because of -- of something like this action. So could you just run an example so I maybe have a better understanding and then I can sit down?

Through you, Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Well, I'll make my best effort.

Let's say it was a car accident and there were multiple fractured bones. There was a bill -- hospital bill, probably ambulance bill, physician bill that was provided

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for the medical care and attention that was provided to the injured party.

Usually what occurs -- and I don't do much personal injury work either, but my understanding is that to determine things like economic damages, meaning future medical costs, that would be a factor or a multiplier would be applied to the medical bill or medical bills that the plaintiff received.

And based on that bill there would be some extrapolation concerning what kinds of medical costs, reasonable and necessary medical costs, the injured party would be likely to be confronted with in the future.

Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.

I don't -- I guess I don't have a clear understanding.

I just can't reconcile in my mind that given the scenario you just gave me that that giving a ride, giving post operative care, preoperative care, anesthesia, how -- how do you build that into a future award maybe down the line for care?

I mean, you're not going to -- I would think -- give somebody those types of issues if there's multiple broken bones.

I -- I can understand the maybe that's used as a boilerplate saying if you've sustained these injuries and this is the cost, this is -- we take all of the medical bills that you've accumulated during the course of the action and we're going to do a life expectancy to be you'll live another 50 years, extrapolate that out that your award will be based on that. That's one mechanism.

But isn't there also the award of -- I -- I -- pain and suffering or -- and in anticipation of economic means from

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if you can't work because of the accident. Isn't that something separate than -- than the scenario you just gave to me?

Through you, Madam -- Mr. President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President.

Noneconomic damages would also be based upon the bill that was received -- that the plaintiff received for the medical care and treatment.

Thank you, Madam President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Madam President.

I -- I thank Senator Coleman for his answers.

You know, I'm not going to be supporting the bill today because I -- I just -- I think in our society this is why things become too expensive. I think we set things up for lawsuits so somebody can make money. Certainly not the patient, I don't think it's the hospital, the doctor. And sometimes I think we build these reserves or these safeguards into our costs because of potential lawsuits.

And -- and I think people should be made whole. And I think that if they are involved in something that they feel necessary to bring to trial that they -- if they need additional care later on in their lives, that that be provided in an award.

I -- I just don't see how the full price of something, even though you didn't pay for the full price should be included.

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If somebody were to say that the price of something has changed for you does that not create a new floor for the expenditure later on down the road? You know, do you -- do you get the platinum treatment or do you get the gold or the silver treatment depending on what's the anticipated outcome?

If you know that you, in your mind, as you're going through you say I'm going to file a lawsuit, well, guess what, I want a private room. I want 24 hour care. I want -- I want, I want, I want because you know you want to build up that dollar amount.

You might not be reimbursed for it all because insurance is only going to pay for part of it. But you can boost up that bill in -- because you're going to benefit by that later on down the road. But then everybody else suffers because you've artificially inflated the costs.

I think that's my understanding. I may be wrong but I -- I try to narrow down the fact that why is it based on what you're billed versus what you pay. Because when we pay insurance, we pay our premiums, that pays for the cost of these services, knock on wood.

I haven't been to a hospital in a long, long, long time, almost 48 years, almost since my birth and -- but I pay for health insurance. I go to the doctor's occasionally.

But I've paid more into the system than I've received. But I know that that goes for others that have needed the services. So the risk is kind of spread out. But when we use the gross number instead of the net number, I'm not so sure that that's a good thing.

So I'm going to sit down now, Madam President, and listen to the debate a little bit further. And if I don't get a clearer understanding by the end of the debate I might stand up again and ask a couple of questions to clarify.

But I thank Senator Coleman for his answers and I look forward to listening to the rest of the debate.

Thank you, Madam President.

THE CHAIR:

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Will you remark (inaudible) Senator Kane.

SENATOR KANE:

Thank you, Madam President.

I have a number of questions to the proponent of the bill.

THE CHAIR:

I bet you do, sir.

Please pro -- proceed.

SENATOR KANE:

I'm very inquisitive.

Through you to Senator Coleman.

Can you talk to me about Section 3 in relation to plaintiff's injury cases, personal injury cases and -- and their rewards?

Through you.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Madam President, the question is rather broad.

I wonder if Senator Kane might be a little bit more specific concerning what aspect of Section 3 he'd like me to discuss?

THE CHAIR:

Senator Kane.

SENATOR KANE:

Well, Thank you, Madam President.

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I guess what I'm getting at is this bill, how it will change the awards in plaintiff injury cases, personal injury cases?

Through you.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Madam President, I think the bill is before us because there has developed an inconsistency in the way that the courts have approached. Some judges apparently admit as evidence of the reasonable and necessary costs of medical care and treatment. Other judges admit the costs that reflected in the bill reduced by the amount of the insurance coverage, for example, that may apply.

And I think there is some history to this. There's -- back in about 1985, we adopted the collateral source approach to personal injury and wrongful death cases. Prior to 1985, the entire cost of the injured parties or deceased party's care and treatment would be before the court without any consideration to whether the -- whether the injured party or the decedent had insurance or not.

As of 1985 or thereabout, the fact of insurance or settlements was factored into the determination, but not necessarily at trial.

Liability is determined in a personal injury and wrongful death case. And then there is a collateral source proceeding whereby if there -- if insurance coverage does exist, the amount of insurance that the plaintiff -- the amount of insurance payment that the -- the injured party received would then be considered by the court. And the determination would be made concerning how that would be used in arriving at the damages that the injured party would be entitled to.

Through you, Madam President.

THE CHAIR:

Senator Kane.

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SENATOR KANE:

Thank you, Madam President.

And you mentioned that the courts are inconsistent, but typically don't we give the courts that discretion to make these type of decisions? Through you.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President. Through you.

I don't know if when we speak in terms of the court's discretion that we mean on an issue like what is the reasonableness - the reasonable and necessary cost of medical care in these types of cases.

I think it would be better for all parties concerned if there was a consistent approach so that damages, number one, might become more predictable and both the plaintiff and the defendant, all of the parties in the case would have some idea of what would be expected from the case.

Through you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

Because I think current law permits the introduction of evidence as reasonable and customary. And the court retains that discretion.

This law would change that.

Through you, Madam President.

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Senator Coleman.

SENATOR COLEMAN:

No. I would disagree with that statement. I don't think that this bill would change that. The -- the bill the medical bill that the injured party receives is merely evidence of what is the reasonable and necessary costs of medical care that was provided.

There is always opportunity for the adverse party to present evidence that might contradict the injured party's or the plaintiff's assertion concerning what is reasonable and necessary.

Through you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

Can Senator Coleman repeat that answer, please, through you?

THE CHAIR:

Senator Coleman, would you repeat your answer to Senator Kane, please?

SENATOR COLEMAN:

Can I repeat the answer?

THE CHAIR:

Please.

SENATOR COLEMAN:

Well -

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Would you, please? I know you can. Would you, please?

SENATOR COLEMAN:

I will make an effort --

THE CHAIR:

Thank you.

SENATOR COLEMAN:

- to repeat the answer.

What I believe I said was that there is in a personal injury wrongful death proceeding, during the trial phase, there -- the issue to be determined is was the reasonable and necessary cost of the medical care that the plaintiff received.

The bill, the medical bill, the doctor's bill that the plaintiff received is admissible as evidence of what the reasonable cost -- reasonable and necessary cost of medical care to the plaintiff was.

I believe I went on to say further that the adverse party, I guess in this case, the defendant, does have the opportunity to present evidence that would contradict the plaintiff's assertion of what the reasonable and necessary costs of medical care provided was.

Through you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

And I -- and I think the differences, if you will, is amount paid versus amount billed, is that true, through you, Madam President?

THE CHAIR:

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Senator Coleman.

SENATOR COLEMAN:

At that point, no.

Amount paid versus amount billed would come at the collateral source hearing. That would be the issue there.

The issue at the trial, once liability is -- well, the issue at the trial is whether or not the amount that the injured party was billed is -- was the reasonable and necessary cost of the treatment that the injured party received.

Through you Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

And I'm just curious about higher amounts which would be -- lead to higher premiums and taking that court's discretion away may lead us in that direction. Do you feel that -- is that of your opinion as well, Madam President?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

That was not a consideration, I suppose. The consideration is making sure that the injured party has -- the injured party or the decedent is made whole to the extent possible.

Through you, Madam President.

THE CHAIR:

Senator Kane.

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SENATOR KANE:

I'm sorry. I missed that answer, Madam President. If you could have Senator Coleman repeat that answer, please?

THE CHAIR:

Senator Coleman, would you mind repeating that, please?

SENATOR COLEMAN:

My response was, through you, Madam President, that the consideration is to make the injured party or the decedent whole to the extent that that is possible.

Through you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

Can you speak to the differences between economic and noneconomic damages?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Probably very generally.

The economic damages would be the costs that the plaintiff incurred. Noneconomic damages, generally speaking, I would understand to be things like pain and suffering.

Through you, Madam President.

THE CHAIR:

Senator Kane.

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SENATOR KANE:

Thank you, Madam President.

And I'm wondering about the rates that have been negotiated by the providers to the HMOs and how this may affect that?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Madam President, I'm not sure I'm qualified to answer that.

Through you to Senator Kane.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

I appreciate Senator Coleman's answers. I'm still going to listen to the remainder of the debate before I make up my mind.

And thank you, Senator Coleman, for answering my questions.

SENATOR COLEMAN:

You're welcome.

THE CHAIR:

Will you remark? Will you remark?

Senator Kelly. I had a feeling you were next, sir.

SENATOR KELLY:

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Thank you, Madam -- very much, Madam President.

I like the concept of this bill. But I'd like to get a little bit more background because it's not just a straightforward proposition.

So if I may, through you, to the proponent of the bill, I have a few questions.

THE CHAIR:

Please proceed, sir.

SENATOR KELLY:

Thank you, Madam President.

Let's just start off with basically what are we trying to do?

And I'm not looking at the liability issue of somebody that's been transported in an ambulance, per se, but let's go more towards the collateral source. You know, we use words like collateral source in law that, you know, sometimes confuses the -- the real meaning of what is actually transpiring.

So could you explain that process to me?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Madam president, to Senator Kelly.

Collateral sources are insurance coverage maybe what has been negotiated -- a negotiated payment. And in connection with this bill, as I indicated in previous responses to Senator Kane and others, in a personal injury and wrongful death case, there is a trial.

During the trial, one of the issues to be determined is the reasonable and necessary costs of the medical

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treatment provided to the plaintiff. The plaintiff may introduce as evidence of that reasonable and necessary cost the medical bill that he received from his or her health care provider. There is an opportunity for the adverse party to present evidence that the reasonable and necessary cost is something less than the medical bill reflects.

At that point, though, the collateral source information would not come into play. The whole issue is what's reasonable, what's necessary, not whether or not there was insurance or some kind of negotiation that occurred.

Once liability is determined, there is a collateral source hearing. And then evidence of insurance could be presented to reduce the amount of damages that may -- or at least, reduce what is viewed as the -- the reasonable amount of medical costs that the injured party has incurred.

The collateral source hearing would be had. Evidence of the existence of insurance and the amount of that insurance would be considered. Whatever payments were made toward the injured party's medical expenses would be considered. And ultimately, an amount of damages would be awarded to the injured party -- the injured party who prevails, and would be entered as a judgment.

That's the process as I understand it.

Through you, Madam President, to Senator Kelly.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

So this is being done, if I understand correctly, in the context of a personal injury/wrongful death, where somebody has sustained an injury. They've been harmed in one way, shape or form. And they believe that they have a claim against another individual. And that other person that they believe was the cause of that injury, it would be in this case, the defendant, would have some sort of

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insurance?

Through you, Madam President, is that correct? Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Madam President, that is correct.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Okay.

So we have somebody who's been injured. They have a claim, a cause of action against an individual who's insured.

So as I understand the process, you would bring your claim in court and there would be a hearing and evidence would be presented to prove your claim.

Through you, Madam President to Senator Coleman.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Madam President, that's -- that is also correct.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Okay.

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So we -- we have these -- these court proceedings on and the evidence is entered. And if it's demonstrated that in this case the person that caused the harm was the defendant, is the person that's the defendant going to pay this or would it be an insurance company if they have -- if they're lucky enough to have insurance, would that be the person that would ultimately pay that?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I would say in most cases, the insurance company would ultimately pay the judgment.

Through you, Madam President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Now, is the ability to have insurance coverage -- is that a proper piece of evidence that's put before a jury?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Madam President, no, it would not be.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

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So the ability or the having insurance is not something that the jury would be mindful of as they deliberate on the merits of this personal injury action or the wrongful death action.

So exactly how does this now work? That the way this would work is that you'd put all the evidence in and as part of that evidence you would put in the total amount of medical payments at the -- I'm going to say at the -- the evidentiary court phase?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President.

At the evidentiary phase, the plaintiff's evidence may be the bill that the plaintiff received for medical care and treatment.

Through you, Madam President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

So what we're going to look at is presenting the -- a hundred percent of the medical charges that were incurred by the plaintiff in the case?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

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To -- to the extent that I heard Senator Kelly's question accurately, I would respond yes.

Through you, Madam President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

Okay.

So the total medical charges are placed into the bill. And then there is what we call the collateral source hearing, which is a second hearing after we've already determined that one party is responsible for the -- for the injury.

At that point, how does the process work?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I'm afraid I'm going to have to ask Senator Kelly to repeat his question.

I apologize.

THE CHAIR:

I'm sorry.

Senator Kelly, would you repeat your question, please?

SENATOR KELLY:

Absolutely. No problem. Thank you, Madam President.

So once we get to the point where we've determined in a

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court proceeding that in this case that the defendant is responsible for the injury, the court proceeding would then move on to a collateral source hearing. And could you explain to me how that procedure works and its relationship to the original cause of action?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President.

Yes. At that phase, things like evidence of insurance coverage and the amount of insurance or the amount that any insurance coverage paid for the medical care and treatment of the injured party would be considered as well, if there were negotiations between the insurance company and the physician who provided the medical care and treatment, evidence of what agreed amount, if the physician agreed to accept a lesser amount than what his bill reflects, that would come under consideration as well.

Through you, Madam President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

So, in essence, what the collateral source hearing is, is more or less -- it -- it looks at the entire medical bill and then looks at any offsets, compromises, reduction in the cost, to come to the actual amount that the individual would have paid and would reduce it from 100 percent to something less, based upon whatever the outcome of the offset, the payment, the negotiation was.

Through you, Madam President.

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THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Through you, Madam President.

That's correct. I think offsets would be a good way to describe what actually takes place during that process.

Through you, Madam President.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

So is it fair to say in this regard that what we have is a process, or what this bill is going to do, is create a process where we would allow somebody who's been injured to put in the full amount of the medical harm that they've had to endure, to have a court determine whether or not that has merit, and if they prevail, to then go to a collateral source hearing that offsets and reduces that to reduce the exposure to any insurer or the defendant.

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Madam President, that is correct.

Through you.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

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Thank you, Madam President.

And this bill then would allow an individual who's been injured to achieve the amount, to the extent possible by law, to be put back in the place they were prior to the injury.

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Madam President, that would be the objective, yes.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you very much, Madam President.

And thank you very much, Senator Coleman, for your very detailed and concise answers. I seriously appreciate that and I appreciate this bill.

Thank you very much.

THE CHAIR:

Thank you very much.

Will you remark? Will you remark?

If not, Mr. Clerk will you call for a roll call vote and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

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THE CHAIR:

Mr. Clerk, will you announce it one more time since people are --

THE CLERK:

Immediate roll call has been ordered in the Senate. Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Edith. Senator Prague. Thank you.

If all members have voted -- if all members have voted the machine will be locked.

Mr. Clerk, will you please call the tally?

THE CLERK:

House Bill 5545.

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	28
Those Voting Nay	0
Those Absent and Not Voting	8

THE CHAIR:

The bill is passed.

Senator Looney.

SENATOR LOONEY:

Thank -- thank you, Madam President. Some additional items to mark at this time.

THE CHAIR:

Please proceed, sir.

SENATOR LOONEY:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 13
4017 - 4345**

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cip/hec/gbr JUDICIARY COMMITTEE

March 23, 2012
10:00 A.M.

REP. FOX: Okay.

CHIEF STATE'S ATTORNEY KEVIN KANE: -- and I think you can refer to them, but, yes, the Commission is recommending that the --

REP. FOX: Okay.

CHIEF STATE'S ATTORNEY KEVIN KANE: -- Legislature direct it to study further.

REP. FOX: Okay. Any other questions for Attorney Kane? Well, it's been a long week for you, so --

CHIEF STATE'S ATTORNEY KEVIN KANE: Thank you very much.

REP. FOX: Okay. Thank you. We're past the first hour, so at this point, I'll turn to the public, members of the public sign-up sheet, and the first name we have is David Lowell.

DAVID LOWELL: Good morning, Senator Coleman, Representative Fox, Distinguished Members of the Judiciary Committee. My name is David Lowell, and I am the President of the Association of Connecticut Ambulance Providers and the Executive Vice President and Chief Operating Officer of Hunter's Ambulance.

And I'm testifying in strong support of Raised Bill 5545. And I would like to thank the Chairs and Representative Cathy Abercrombie for working on this language and allowing this to be heard.

Specifically, Section 1 of this bill speaks to the financial liability for ambulance transports. The ambulance services system across our state of Connecticut is perhaps the only arm of our healthcare system that has to

respond, treat, and transport patients at 100 percent financial risk, you know, each and every day in our 911 system.

We do that without regard for the patient's ability to pay, and this legislation would serve to provide more of a contractual relationship with the patient and the ambulance provider and a stronger means for some avenue of reimbursement or legal means to go after reimbursements if the patient is uninsured, and we find that quite frequently.

Neighboring states have had this legislation, and talking with our sister companies in those states, it has served to help recoup dollars that are expended on those calls.

I'd like to make one recommendation, if I may, in Section 2, Subsection B, and Section 3, Subsection B. It refers to an emergency medical technician. And I would simply like to offer that an amended language include also a paramedic as licensed in the statute, I believe it's 368(b).

In summary, I'd like to say by passing the language, it would enable providers to recover fair and reasonable costs for providing ambulance services in those circumstances where the patient does not have insurance and refuses to pay. I'd like to thank you for the opportunity to testify, and I remain available to answer any questions for you.

REP. FOX: Well, thank you. Are there any questions? Representative Baram.

REP. BARAM: Thank you, Mr. Chairman. Would this legislation cover volunteer ambulance associations as well?

DAVID LOWELL: Yes, it would. It would cover volunteer, municipal, the for-profits, and the third-party not-for-profits, every service in our state.

REP. BARAM: And this would still require the ambulances to respond initially regardless of whether a person is insured or has the ability to pay?

DAVID LOWELL: Correct. It does not alter the duty to respond in any way.

REP. BARAM: Thank you.

REP. FOX: Are there other questions? I just have one, I think. So right now, when somebody does not have health insurance and you respond, as you always have, I'm, I guess I'm not entirely clear as to why you can't collect now.

DAVID LOWELL: Well, I think we lack some legal basis to go after it to the nth degree. I mean, we make a request, typically, and the patient will deny or refuse.

And I think, you know, small claims options and things of that nature which you might be referring to, I think we lack the teeth, and we lack that contractual relationship with a patient where there's a duty of them for some financial, you know, responsibility for the cost of the medical care that they receive.

Unlike institutionalized healthcare, when you present yourself there, you either present insurance, or you sign an authorization which enters that patient into a contractual relationship with the medical provider that says, you know, if my insurance doesn't pay, or I don't have insurance, I'm signing here

that I'm going to pay, we don't get that at the onset.

We answer the 911 call totally at risk. Oftentimes, in those emergency scenarios, other people on behalf of the patient are calling, so the patient hasn't had a role in the activation of the system, and they use that as a basis for argument. And we just haven't had a great deal of success in recouping those dollars without the legislation.

And in, again, talking to providers in other states, they seem to have had success with inserting this level of language in statute giving a little bit more responsibility under law for the patient to be, you know, responsible for payment.

REP. FOX: Is the cost of an ambulance service pretty consistent?

DAVID LOWELL: It is. Our state rates are regulated, so each provider volunteers and the like. Everybody submits annually to the State Department of Public Health. The rates are set like a public utility model. And, you know, they're published annually.

REP. FOX: Are they by mileage, or is it just one trip, one --

DAVID LOWELL: No, there's a base rate of their service.

REP. FOX: Yeah.

DAVID LOWELL: And there is an ancillary mileage charge. And then there's a difference between advanced life support and basic life support.

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cip/hec/gbr JUDICIARY COMMITTEE

March 23, 2012
10:00 A.M.

REP. FOX: Because my recollection in dealing clients' records and things, it's about \$450 (inaudible).

DAVID LOWELL: Yeah, it's a little bit more than that now.

REP. FOX: It is a little more now? Okay.

DAVID LOWELL: In the \$600 range for a base ambulance rate, yeah.

REP. FOX: Okay. So somewhere between four and \$700, though, that's what you're --

DAVID LOWELL: Yeah, exactly.

REP. FOX: And have you brought suits, lawsuits, and had them thrown out, or you just are reluctant to do so given --

DAVID LOWELL: We have had marginal, limitedly virtually no success. In bringing a lawsuit, you know, we're talking probably in most cases 1,000, you know, \$1,000 at most in most of the cases.

REP. FOX: Yeah.

DAVID LOWELL: So they're relatively small amounts of money for single incidents, but over, you know, in Connecticut, we're doing probably 400,000 emergency calls a year. Probably 40,000 of those are uninsured.

And out of the 40,000, probably 34,000 of them are, fall into that population, I'm not paying you, I didn't call you. And so if you multiply, you know, it's a, could be a significant amount of money to individual single-ambulance towns to pick up, you know --

REP. FOX: I'm just going to throw out one example. What if somebody does, is not the person who makes the call and then refuses the service? Would they be subject to a cost?

DAVID LOWELL: No.

REP. FOX: Let's say, for example, it was an accident. Somebody watches the accident. They call on their cell phone. We need, you know, there's an accident. You send an ambulance, which the appropriate thing to do.

DAVID LOWELL: Right.

REP. FOX: But at the same time, the person who was in the car says, no, I'm fine, I don't need a, yeah.

DAVID LOWELL: Yeah. If there's no transport, there's no charge for service.

REP. FOX: Okay. Okay. All right. Representative Baram?

REP. BARAM: Thank you, Mr. Chairman. If the municipality has a volunteer ambulance department, but a private ambulance carrier is called in because maybe they're too busy on another call, does the municipality have any responsibility to reimburse the private carrier?

DAVID LOWELL: Typically, my knowledge of most of the primary service areas they do not unless there is a subordinate contract between the mutual aid company and the town where the volunteer company and their town that if a provider is called in and there is no means of reimbursement, that the town would give them a fee. Typically, I haven't seen that, that it's 100 percent at risk for the provider.

REP. BARAM: And are there any state funds that can be accessed by a commercial ambulance company to recoup nonpayment?

DAVID LOWELL: No. In the hospital system, there's the uncompensated care fund where taxes are paid in, and there's a pool of money. We don't have anything of that nature to recoup any of those lost dollars.

REP. BARAM: Thank you.

REP. FOX: Any other questions or comments? No. Thank you very much.

DAVID LOWELL: Thank you.

REP. FOX: Is Representative Luxenberg here? I do not see him. I'll then go to Mike Lawlor and Justice David Borden.

MIKE LAWLOR: I get to go first.

REP. FOX: Of course.

MIKE LAWLOR: We've divided up the responsibilities, Mr. Chairman, and I'll describe the relief from barriers proposal, and then Justice Borden will talk about the reconsideration of a juvenile sentence proposal.

Good afternoon, Members of the Committee. My name is Mike Lawlor. As you know, I work for the Office of Policy and Management, but I'm also the Vice Chair of the Connecticut Sentencing Commission. The Chair, Judge Shortall, can't be with us today, so I'm testifying in his stead.

SB 453

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 14
4346- 4668**

2012

measures of impulsivity which have been tested and which have been found to be reliable. So there are objective measures in the field.

My concern is that we don't have a reliable and valid way of combining those into the overall measure of maturity or culpability that seems to be the concern here. But I wouldn't be nihilistic or dismissive of the degree of reliability or the validity of the scales of the individual contributing factors, such as impulsivity.

REP. HETHERINGTON: Thank you.

REP. FOX: Thank you. I don't see any other questions so thank you very much for your testimony. Next is Susan Giacalone.

SUSAN GIACALONE: Good afternoon, Representative Fox, Representative Hetherington, Representative Lopes and Senator Gomes. For the record my name is Susan Giacalone. I'm here on behalf of the Insurance Association of Connecticut. I have submitted testimony in regards to House Bill 5545 and Senate Bill 422 and due to the hour and the length of what you still have left before you I will try to keep my comments very brief.

Basically, to sum it up we -- we are opposed to Sections one, three and four of House Bill 5545 and we strongly support Senate Bill 422.

Section one of House Bill 5545 you heard earlier was about -- it sounds like a balanced billing bill for ambulances. If something has been paid by an insurer or any other source then they can balance what wasn't paid. Also alarming was -- was not clear in the bill, but through the testimony is that this would apply also to volunteer companies that are tax

dollar funded, which would mean you're causing the taxpayer who's already funded it to pay for it twice.

We are adamantly opposed to that section because we don't see the public policy behind it.

And in Sections two and three of this bill, you've seen this bill many times. It basically, would permit a plaintiff to again allow a bill that was say it's a medical bill for \$1,000.00 but the doctor accepts 500 either, that's what the insurance contract allows or that's what he's accepted for full payment; however, this proposal would say that you get to put the full \$1,000.00 bill in before the jury it's a irrebuttable presumption you can't come in and challenge a reasonableness of the bill, which would lead to inflated settlements and undue tort reform that one and two and the collateral offset that's contained in Section two is already current practices and would have very little negating on the inflation that would be done by Section three if that was to go forth.

As far as Section 4 the retroactive effectiveness of the changes made to the workers' comp lien statutes. We are opposed to that in that -- that would actually impact claims that have already been settled -- have already been paid out on and we don't know what it's going to mean and we've already incurred costs on that if you call the testimony that advanced the bill last year was so they needed to pads reduction so they could take cases.

Arguably, cases were taken at the time -- counsels already been retained, so again, like any other act that's been, you know, prior to

claims going forward.

Senate Bill 422 actually tries to bring some parity back to the workers' comp subrogation system. One of the intents of the bill last -
- act last year that change the lien amount was so that we wouldn't have to intervene to protect the lien, but there is still a requirement in statute that in order to protect the priority of the lien, we still have to intervene.

So the argument is that we shouldn't have to intervene that -- at the least needs to come out.

Also as Representative Hetherington discussed during the floor debate that right now the way the act or the law is, is even if we retain our own lien on or own through our own efforts we still have to pay a third of that lien to a plaintiff if they bring an action separate and distinct, and we don't think that should be either.

It was very clear that this bill -- the way it was done has costs to the state and municipalities so they were carved out of it. Any changes retroactive would have significant costs or even greater cost to the private sector, and we're trying to actually parrot down the impact of it a little further with Senate Bill 422. And I kept it under the three minutes. Thank you.

REP. FOX: Okay. Thank you. I know you were -- weren't sure if you were going to be able to be here so I appreciate you waiting around all day to testify. On the medical bills portion of -- of that first bill you referenced, it was my understanding recently that there was some sort of a discussion -- I don't know if I

HB 5545

uncertainty as to what changes are allowable. Finally, if the -- if this committee does decide to move forward on a bill and if you do its likely not to be Senate Bill 444, but House Bill 5440 on which you're not going to have a separate hearing.

I would just ask you to note that in the Committee on Aging, the Legal Services Program requested that if that bill moves forward there be two changes. Neither of which were -
- are in the bill that came to you.

One is, if you're going to codify one of those decisions, codify Roth, rather than DiGiovanni. And second, make sure that there's a requirement that the custodial parent get actual notice of the petition. I can explain those more if you want to know. There's a little more about that in my written testimony or that's up to you if you want to pursue it further.

Thank you very much for the opportunity to speak.

SENATOR COLEMAN: Thank you. Are there questions?
Seeing none. Thanks for your testimony.

RAPHEAL PODOLSKY: Okay. Thank you.

SENATOR COLEMAN: Steven Wineberger. Michael Walsh.

MICHAEL WALSH: Good evening, Senator Coleman, Representative Fox, members of the committee. My name is Mike Walsh and I'm a trial attorney here in Hartford. I currently serve as President Elect of the Connecticut Trial Lawyers Association, and I'm here to speak on their behalf in support of Raised Bill 5545.

Specifically, we're speaking in support of Sections Two through Four of that bill. Sections Two and Three of the bill pertains to revisions in the collateral source of statute. Presently under our current system medical bills are offered at the time of trial as economic damages and then after the trial there's a what we call a collateral source hearing, and any medical bills that have been paid by insurance are then deducted in the collateral source hearing.

There's a problem with write-offs. And a write-off is when a health care provider accepts what insurance companies pay and then writes off the balance. So there's a \$100.00 bill and insurance pays \$40.00 and the -- the healthcare provider writes off 60. The question then becomes how you handle that write-off in the collateral source hearing, and in terms of the evidence at trial.

And what Section Two and Three are proposing to do is to clarify the uncertainty. Essentially what we're proposing is first, the whole medical bill will come in at the time of trial and it's Section Three of the Raised Bill and then, at the time of the collateral source hearing the judge will determine what's been paid by health insurance and deduct that and then he'll also determine if there's any write-off and he'll consider that a collateral source as well, and that will get deducted.

So it's essentially a bill that's seeking to clarify what's currently ambiguous under the law. It's -- the revision is entirely consistent with what we think are the principals of -- of the collateral source of statute when it was passed in 1987. So we're urging -- we're urging this committee to -- to approve the Sections Two and Three to clarify

that ambiguity.

Lastly, Section Four is just a bill to clarify Legislation that was passed last year with regards to the workers' compensation statute, and specifically how the workers' compensation lien operates in the context of a third party claim.

The Legislation was passed last year. There's been a lot of uncertainty with a lot of claims as to when it -- which cases it affects. Does it affect pending cases? Does it affect cases in which the injuries occurred, but hasn't been filed yet? Does it only affect cases in which neither the injury or -- or the case has been filed?

And what this -- this provision does is it just it basically adds clarity and says, it affects the cases that were pending at the time that the -- the bill became effective which wasn't covered the first of last year.

So we're here to testify in support of Two, Three, and Four sections of 5545 and we urge your consideration.

SENATOR COLEMAN: Thank you. Are there questions?
Thank you, Attorney Walsh.

MICHAEL WALSH: Thank you.

SENATOR COLEMAN: Amy Sulimito. Gwen Samuel.

GWEN SAMUEL: Good long evening, gentlemen. Or we can look at -- can we just (inaudible) good evening?

SENATOR COLEMAN: Good evening.

GWEN SAMUEL: We're working with you. We're here.

SB 453
HB 5508



State of Connecticut
HOUSE OF REPRESENTATIVES
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE CATHERINE F. ABERCROMBIE
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VICE CHAIR
APPROPRIATIONS COMMITTEE

MEMBER
GOVERNMENT ADMINISTRATIONS AND ELECTIONS
COMMITTEE
PUBLIC HEALTH COMMITTEE

Testimony for HB 5545

Representative Fox, Senator Coleman and members of the Judiciary committee. My name is Rep. Catherine Abercrombie of the 83rd district. I am here to testify in support of HB 5545, sec 1. I would like to thank the chairs for raising this bill.

HB 5545 would enable ambulance companies to collect the costs associated with providing emergency medical treatment and transportation services to patients who require their services.

We know that ambulance personnel are first responders who respond to emergency calls regardless of whether or not the patient has healthcare coverage. They do this at risk to their business, as they do not know if they will be paid or not.

Although in recent years as the cost of rising fuel prices and increased overall expenses have impacted ambulance service providers, they have not shied away from providing emergency services to all people in need.

I urge the committee's support on HB 5545. Thank you for the opportunity to speak on this issue.

STATEMENT***Insurance Association of Connecticut******Judiciary Committee***

March 23, 2012

**HB 5545, An Act Concerning Financial Liability For Ambulance Services, Evidence
Of Collateral Source Payments and Liens in Workers' Compensation Cases**

and

**SB 422, An Act Concerning Apportionment Of Damages
In Workers' Compensation Cases****Section 1 of HB 5545**

The Insurance Association of Connecticut (IAC) is opposed to Section 1 of HB 5545, which would make an individual potentially liable to an ambulance company for expenses beyond reasonable and customary charges. Section 1 would mandate that an individual pay an ambulance or emergency service provider the balance of any amount billed that is not covered by another source. Simply put, such a provider could charge anything they want to an individual and the individual would be statutorily responsible to pay that bill. As this section serves no public purpose, while driving up costs, the IAC urges your rejection of this section.

Sections 2 and 3 of HB 5545

The Insurance Association of Connecticut is opposed to Section 3 of HB 5545 which prevents extrinsic evidence to be considered regarding the reasonableness of a bill incurred in a personal injury action. Section 3 of HB 5545 seeks to improperly prohibit the trier of fact from hearing relevant information directly related to economic damages. HB 5545 prohibits the introduction of evidence regarding any reduction in a health care professional's bill from being admissible to establish reasonable and necessary medical care essentially creating an irrebuttable presumption that the bill is reasonable. This runs counter not only to Connecticut case law, but also to the Constitution. See, e.g., Vlandis v. Kline, 412 U.S. 441 (1973) ("a statute creating a presumption which operates to deny fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.")

Proscribing that the "calculation of the total amount of the bill shall not be reduced because [the provider] accepts less than the total amount of the bill or because an insurer pays less than the total

amount of the bill” infringes on the fundamental right of the defendant to cross-examine a witness. Connecticut courts have long held that “cross-examination” is an indispensable means of eliciting facts. As a substantial legal right, it may not be abrogated or abridged at the discretion of the court to the prejudice of any party.” Richmond v. Longo, 27 Conn. App. 30, 38 (1992). If the bill for a procedure is \$1,000, but the provider accepted \$500 in full settlement, this is evidence as to the reasonableness of the bill, and is fair subject for cross-examination. To deny that ability is abrogating a defendant’s right with prejudicial affect.

C.G.S. Sec. 52-174(b), which section 3 is seeking to amend, was designed with the limited purpose to permit the introduction of medical reports and bills without the need for testimony. It was intended to be a procedural device to facilitate the introduction of medical evidence at trial. It was never intended to impede the due process rights of defendants. In fact, the Connecticut Supreme Court has held that one of the reasons this section of statute is valid is because the defendant is always able to cross-examine the provider as to the reasonableness of the reports and bills. See, Struckman v. Burns, 205 Conn. 542, 552 (1987). If this ability is removed, it makes the whole statutory scheme suspect.

In any personal injury or wrongful death claim the law permits a claimant to seek recovery for “reasonable medical expenses”. Prohibiting the introduction of evidence to show that medical expenses received were less than what was billed permits recovery for “phantom damages” and unnecessarily limits a party’s ability to challenge the extent of care. Allowing the recovery of such phantom damages, as created by Section 3, creates an unearned windfall for claimants by forcing defendants to pay inflated economic damages based upon inflated medical expenses. Current law that allows the introduction of evidence of the actual medical expenses incurred assures that claimants only recover their actual out-of-pocket medical expenses. It also permits a party to be able to challenge the reasonableness of the charges and necessity of the care rendered. Why shouldn’t the trier of fact be able to hear that a medical provider’s bill was not paid in full because they charged twice what any other provider charges or that a medical provider only received “x” amount of dollars

for their services? Section 3 will result in inflated settlements and damage awards, driving up costs in Connecticut.

Section 2 of HB 5545 would statutorily permit a collateral source reduction that is already permitted in Connecticut, (see Hassett v. City of New Haven, 91 Conn. App. 245 (2005)). The reduction does very little to negate the impact of Section 3. The damage will already be done. Although Section 2 does no harm, it is not necessary and does not make Section 3 palliative. The IAC urges your rejection of Section 3 of HB 5545.

Section 4 of HB 5545 and SB 422

The IAC is opposed to Section 4 of HB 5545 which seeks to have the effect of the changes made to Sec. 31-293 last year apply retroactively.

Retroactively amending the effectiveness of a public act that has been law for almost a full year is fundamentally unfair. Sec. 31-293 was amended last year mandating a one-third reduction of all private sector workers' compensation liens. The scope of the mandate was limited to the private sector because the legislature acknowledged the significant cost impact the change would have had to the state and municipalities. With the passage of PA 11-205, the private sector has already had to absorb costs that it cannot recoup. Section 4 of HB 5545's retroactivity will result in an even greater financial burden to the private sector. This is fundamentally unfair and potentially impossible to administer. Costs have already been incurred. Counsel retained. Negotiations are taking place or complete. Claims have been settled and closed. What is to happen to those claims? Is the private sector expected to go back, reopen those claims? Such a proposition will cost the private business sector even more, that it will never be able to recoup.

The changes made to Sec. 31-293 by PA 11-205 impact a lien holder's right to counsel as they are statutorily forced to enter into a contract with an attorney if they do not choose, may not want, and at a rate set by law. Although Sec. 31-293, as amended by PA 11-205, does not prohibit a lien holder from retaining their own counsel to protect their lien, the changes made last year, and proposed by Section 4, make it cost prohibitive, essentially chilling their constitutional right to counsel and due process.

SB 422

SB 422 seeks to reduce the chilling effect of PA 11-205 by bringing some parity back to the worker's compensation subrogation system.

A rationale advanced in support of the passage of PA 11-205, and Section 4, is that the attorney for the plaintiff does all the work to procure the employer's lien and therefore should be paid for such efforts. While the insurance industry is sympathetic to that concept, pursuant to current law, independent counsel must be retained to protect the priority of one's lien which is one of the items that SB 422 seeks to correct. Furthermore, there are many circumstances under which a lien holder will decide to retain counsel of its own to protect its interest. That can be done at minimal cost if the lien holder controls the contractual relationship with the counsel it chooses. SB 422 eliminates the chilling effect of the changes made to 31-273 by permitting a lien holder to retain counsel of their own choosing without the consequence of suffering a significant financial loss in doing so. If the lien holder hires their own counsel to protect their lien or recovers their lien through their own efforts, they should not be statutorily mandated to pay one-third of that recovery to the injured employee whom they have already paid 100% of their workers' compensation benefits. If the lien holder chooses to use plaintiff's counsel to pursue their lien, then and only then, should the mandatory reduction apply.

The rationale behind the mandate that any workers' compensation lien be paid in full was so that no one person was permitted to receive a windfall and to make the workers' compensation system whole. One of the principle purposes of Sec. 31-273 is "that an employee should not receive workers' compensation payments in addition to the full amount of damages for the same injury for a third party tortfeasor. Allowing a plaintiff the opportunity to recover reasonable and necessary expenditures she incurred by pursuing an action against the party responsible for the injury encourages a fair result" covering both the employee's and employer's interest. (See Yeagar v. Alvarez, 134 Conn. App. 112, 122 (March 6, 2012)). The changes made last year to Sec. 31-273 improperly ignored that rationale by permitting one class of workers to receive a windfall at the expense of the rest of the workers' compensation system. SB 422 seeks to remove that windfall and properly classify the reduction, if

applicable, to cover the reasonable and necessary expenditures incurred for pursuing the action against the responsible third party.

The IAC urges rejection of Sections 1, 3 and 4 of HB 5545 and respectfully requests your support for SB 422.



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Raised Bill No. 5545
Public Hearing: 3/23/12

TO: MEMBERS OF THE JUDICIARY COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: MARCH 23, 2012

RE: SUPPORT OF SECTIONS 2 THROUGH 4
RAISED BILL 5545 AAC FINANCIAL LIABILITY OF AMBULANCE
SERVICES, EVIDENCE OF COLLATERAL SOURCE PAYMENTS, AND
LIENS IN WORKERS' COMPENSATION CASES

The Connecticut Trial Lawyers Association respectfully urges the members of the Connecticut General Assembly to pass Sections 2 through 4 of Raised Bill 5545. The CTLA specifically supports Sections 2 and 3, which pertain to evidence of collateral source payments, as well as Section 4, which clarifies the effective date of legislation passed last year pertaining to the Workers Compensation Statute.

Collateral Source Payments

Sections 2 and 3 of Raised Bill 5545 seek to correct current ambiguity existing in the calculation of collateral source payments pursuant to Connecticut General Statute § 52-225a. The proposed revision to C.G.S. § 52-225a, and the corresponding revision to § 52-174, serves to clarify the manner in which insurance "write offs" are handled under the statute.

In terms of historical context, prior to 1987 Connecticut followed the common law collateral source rule. Under this rule, a plaintiff was entitled to recover his entire damages from the tortfeasor, regardless of whether any portion of those damages were paid by a third party, including health insurance. The rationale for the rule was that a wrongdoer should not benefit from payments by an outside source. *Rametta v. Stella*, 214 Conn. 484, 489-90 (1990).

In 1987, the Connecticut Legislature partially abrogated the common law collateral source rule by enacting Connecticut General Statute § 52-225a-c, commonly referred to as the Collateral Source Statute. Pursuant to this statute, after a verdict the court conducts a hearing to reduce the amount of economic damages awarded by the amount that has been paid by collateral sources (i.e. health insurance), less the amount paid by the claimant to secure the collateral

source benefit (i.e. health insurance premium). There is no reduction for collateral source payments for which a right of subrogation exists. The stated purpose of the Collateral Source Statute was to prevent the plaintiff from obtaining a double recovery, whereby a jury awarded compensation for medical bills incurred, even though a health insurance carrier had paid the medical bills.

The legislative scheme enacted in 1987, and still in place today, fails to address the situation where a healthcare provider has accepted less than full payment for a medical bill and then "writes off" the balance. Since health insurance companies frequently do not pay the full amount of the medical services billed, the "write off" situation is very common and has created confusion and uncertainty in the courts with regard to the manner in which "write offs" should be handled under the statute.

Raised Bill 5545 seeks to resolve that ambiguity. Pursuant to Section 3 of Raised Bill 5545, a party would be entitled to offer the total medical bill into evidence at the time of trial as evidence of the reasonable and necessary cost of medical care received as a result of an incident. Section 2 of Raised Bill 5545 then amends the Collateral Source Statute, § 52-225a, to include an insurance "write off" as evidence of a collateral source pursuant to the terms of that statute. In this vein, the stated purposes of the 1987 legislative enactment are fulfilled and an insurance "write off" is treated in the same manner as a medical bill that has been paid by insurance. The plaintiff does not receive double recovery and the defendant receives credit not only for the amounts that have been paid by insurance, but also for any amounts that have been "written off" by the healthcare provider.

Revision to Workers Compensation Statute

Section 4 of Raised Bill 5545 presents a technical change to the legislative changes passed last year relative to the Workers Compensation Statute, Connecticut General Statute § 31-293. In the wake of last year's passages, numerous questions arose as to whether the recent revision applied to pending cases. The proposed statutory revision clarifies that the statutory changes from last year are applicable to any action pending on or after July 1, 2011, the effective date of the passage of the bill.

This revision serves to clarify the effective date of the statutory provision and thereby provides guidance to both plaintiffs and defendants relative to the application of the statutory changes.



Property Casualty Insurers
Association of America
Shaping the Future of American Insurance
2601 South River Road, Des Plaines, IL 60018-3286

STATEMENT

PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)

H.B. No. 5545— AN ACT CONCERNING FINANCIAL LIABILITY FOR AMBULANCE SERVICES, EVIDENCE OF COLLATERAL SOURCE PAYMENTS AND LIENS IN WORKERS' COMPENSATION CASES.

COMMITTEE ON JUDICIARY

March 23, 2012

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to comment on H.B. 5545. Our comments are provided on behalf of the member companies of PCI, a national property casualty trade association with over 1,000 member companies. PCI member companies provide 43 percent of Connecticut's property casualty coverage.

PCI strongly opposes the provisions in section three of this bill because these provisions would inequitably increase damages in personal injury actions by prohibiting consideration of the fact that an amount less than the amount billed by a health care provider was paid on the issue of cost of reasonable and necessary medical care. The amount paid should be the amount utilized to determine damages because allowing paid amounts as damages reimburses the injured person for all of his or her actual medical expenses. When billed amounts exceed the amount paid, the billed amounts are "phantom damages" – in that they appear only on paper, but not in reality. In essence, including in damages excess amounts above what is actually paid for medical services amounts to a windfall. In addition, requiring billed amounts to be included as damages would also invite fraud and encourage side agreements to inflate bills for medical services.

Enacting the provisions in section three will only lead to the inequitable inflation of judgments which may lead to increases in insurance premiums. During these difficult financial times when businesses and consumers are having difficulty making ends meet, increases in insurance premiums can be particularly difficult to bear and, in this case, it seems particularly ill advised to put Connecticut residents and businesses in this position so that some can enjoy a windfall via unfairly inflated judgments.

PCI is also strongly opposed to the provisions of Section 4 of this bill which provide for the retroactive application of provisions enacted last year relative to workers compensation liens. Providing for the retroactive application of these provisions is grossly unfair and will result in costs being incurred which cannot be recouped. This section amounts to changing the rules of the game mid way through and, accordingly, is highly problematic.

For the foregoing reasons, PCI urges your Committee to not favorably advance HB 5545.



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March 22, 2012

Joint Committee on Judiciary
Room 2500, Legislative Office Building
Hartford, CT 06106

RE: Raised Bill # 5545

Dear Committee Members:

I run a large medical billing firm that exclusively serves clients in the ambulance industry. We handle the claims processing for more than 30% of the ambulance services that charge in this state.

I urge you to support and pass Bill # 5545.

In emergency situations, ambulances are often called by law enforcement, fire officials, by-standers and friends for a person having a medical problem. The 9-1-1 system requires the ambulance service designated for the community where the person is located; to respond, treat and transport the patient regardless of knowing how, or if, they will get paid.

In fact, the ambulance industry as a whole has the worst payment demographics of any healthcare specialty due to the rendering of 'instant credit' at the scene of an emergency event. It is also fairly common for patients to call up days or weeks later and refuse to pay their bill using the excuse "I didn't call for the ambulance".

Many of the communities in this state are served by small, non-profit ambulance organizations and others are served by agencies operated by financially strapped municipalities.

Passage of this bill will help all ambulance providers in this state by giving us a tool to use in billing and collection activity, up to and including in Small Claims Court, by establishing the contractual relationship and obligation of the patient to pay for the services they received.

As you know, the State Department of Public Health sets the rates for each ambulance service annually. Merely setting the rates does not mean that the ambulance services can collect on each trip. Our economic climate is such that every provider of service should be able to collect the maximum amount of fees for services rendered. This legislation will help every ambulance service in the state collect more of what they're owed.

I've been fortunate to have worked in the ambulance industry in this state for the last 33 years. After running multiple EMS agencies over those years and dealing with this problem, that has plagued the industry, throughout my entire career...this legislation will finally give the industry the legal standing it needs to enforce it's rights in collecting for services rendered in good faith in accordance with the State EMS Regulations.

Thank you for your time and consideration of this important legislation.

If I can be of further assistance, please feel free to contact me.

Sincerely,

Bob Holdsworth

Bob Holdsworth, EMT-P, President
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Association of Connecticut Ambulance Providers

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Testimony of David D. Lowell, President Supporting Section 1 of House Bill 5545

AN ACT CONCERNING FINANCIAL LIABILITY FOR AMBULANCE SERVICES
Judiciary Committee, March 23, 2012

Senator Coleman, Representative Fox and esteemed members of the Judiciary Committee. My name is David Lowell and I am President of the Association of Connecticut Ambulance Providers and Executive Vice President and Chief Operating Officer of Hunter's Ambulance Service. I am here today to testify in strong support of House Bill 5545, specifically, Section 1 concerning financial liability for ambulance services.

Ambulance providers respond to all emergency medical calls without regard to ones healthcare coverage. As a result, many people who receive treatment and/or transport fail to pay. Ambulance services across our state have the statutory duty to respond to 911 calls for help in the communities we serve without regard to the patient's ability to pay. This duty includes factoring in all the costs associated with personnel, vehicles and equipment staffed in a pattern that most efficiently meets the predictable call volume demand as determine by historical data.

In fact approximately 10% of people served by ambulance providers are self payers, of which only 15% of those pay for the treatment and transport they receive. As a result, these costs are passed on to other payers. Since those privately insured and Medicaid and Medicare recipients all pay something when receiving medical treatment from an ambulance provider these individuals should also be required to pay something to create a balance across the healthcare spectrum.

House Bill 5545 would enable ambulance companies to collect the reasonable and necessary costs associated with providing emergency medical treatment and transportation services to individuals. Unlike physicians' offices and other institutionalized health care facilities, ambulance providers do not have the option, nor would it be appropriate to ask the 911 caller questions related to the patient's insurance coverage or willingness and ability to pay for services. We therefore take on all emergency calls at a risk. This makes it difficult to collect from many individuals. To address this issue states like Vermont have passed into law language making these individuals liable in contract once they receive medical treatment from an ambulance or first responder service.

The need for similar legislation is further highlighted by the fact that 35% of all ambulance responses do not end in transport and therefore are not billable. Ambulance providers have to account for the large number of unpaid transports and services by cost shifting to other payers. It also diminishes the ability to make necessary repairs, purchase new vehicles and equipment, hire new employees and provide additional employee benefits.

By passing this language it would enable providers to recover costs for more of their services without any cost to the state. In recent years the ambulance industry has been hit hard by rate cuts, rising fuel prices and increased overall expenses. These payments are important in ensuring a sustainable industry that can meet the increasing demands of an aging population. Thank you for your time and consideration of this legislation.