

Legislative History for Connecticut Act

PA 14-167

SB61

House	7074-7079	6
Senate	2325-2329, 2343-2344	7
Labor	40, 73-77, 137-139, 144- 146, 186-192, 201-208, 260-268, 554, 576-598, <u>602-612</u>	71

84

H – 1201

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2014**

**VOL.57
PART 21
6912 – 7260**

Good evening, Mr. Speaker. I'm sorry for the confusion. We're about to set up our third consent calendar for the evening, Mr. Speaker.

SPEAKER SHARKEY:

Please proceed, sir.

REP. ARESIMOWICZ (30th):

Mr. Speaker, I would ask that -- I would like to move the following items to the Consent Calendar, all of which are in concurrence with the Senate.

Senate Bill 293, House Calendar Number 539 as amended by Senate "A"; Calendar Number 321; Calendar 486 as amended by Senate "A"; Calendar 542 as amended by Senate "A"; Calendar 540 as amended by Senate "A"; Calendar 507 as amended by Senate "A"; Calendar 411 as amended by Senate "A"; Calendar 472 as amended by Senate "A"; Calendar 314; Calendar 132 as amended by Senate "A"; Calendar 116 as amended by Senate "A"; Calendar 541 as amended by Senate "A" and Senate "B".

SPEAKER SHARKEY:

Representative Aresimowicz, I believe that a couple of the bills that you called were actually Senate calendar numbers, not House calendar numbers. So I believe the Clerk knows what you're intending, he

mhr/md/ch/cd/gm
HOUSE OF REPRESENTATIVES

564
May 7, 2014

may -- with your indulgence, I was going to ask him
to, perhaps, offer the correction.

REP. ARESIMOWICZ (30th):

Mr. Speaker, maybe for clarification, I'll go
through the bill numbers very quickly.

It being Senate Bill 29 --

REP. CAFERO (142nd):

Mr. Speaker -- excuse me, Mr. Speaker. Is this
the appropriate time for one to object to all the
items on the Consent Calendar?

SPEAKER SHARKEY:

It would be.

REP. CAFERO (142nd):

I will object to all the items on the Consent
Calendar. I would respectfully request that we talk.

SPEAKER SHARKEY:

Thank you, sir.

With that objection, we will suspend action on
the Consent Calendar so that the Minority and Majority
Leader may talk.

[Pause.]

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

Mr. Speaker, I -- just to clarify, I'm going to run through the bill number and the calendar number.

It would be Senate Bill 293, which is Calendar 545; Senate Bill 429, which is Calendar 539; Senate Bill 115, which is Calendar 321; Senate Bill 203, which is Calendar 486; Senate Bill 71, which is Calendar 542; Senate Bill 447, which is Calendar 540; Senate Bill 61, which is Calendar 507; Senate Bill 75, which is Calendar 411; Senate Bill 321, which is Calendar 472; Senate Bill 66, which is Calendar 314; Senate Bill 178, which is Calendar 495; Senate Bill 430, which is Calendar Number 489; and Senate Bill 425, which is Calendar 51 -- 541.

And I move adoption of the Consent Calendar.

SPEAKER SHARKEY:

Mr. Clerk, does that match your listing of the calendar numbers?

THE CLERK:

430, Mr. Majority Leader, Senate Bill 430 is calendar what?

REP. ARESIMOWICZ (30th):

489.

THE CLERK:

Yes. It does, Mr. Speaker.

SPEAKER SHARKEY:

And, Mr. Majority Leader, could you also indicate -- I'm sorry to have to delay this for a second, but according to my notes, all of those -- well, most of those are adopted -- or amended by Senate "A"? If you could just --

REP. ARESIMOWICZ (30th):

Correct, Mr. Speaker.

SPEAKER SHARKEY:

specify --

REP. ARESIMOWICZ (30th):

Except the first and the last, sir. The last one being Senate "A" and "B," sir.

SPEAKER SHARKEY:

Thank you. As long as we're clear about the amendments that have been adopted in the Senate.

REP. ARESIMOWICZ (30th):

Correct, Mr. Speaker. And I move passage of the bills on today's Consent Calendar Number 3.

SPEAKER SHARKEY:

The question before the Chamber is adoption of the Consent Calendar Number 3?

Staff and guests please come to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House is voting on Consent Calendar Number 3.

The House is voting by roll. Will members please return to the chamber immediately.

SPEAKER SHARKEY:

Have all the members voted? Have all the members voted?

Take your time, Representative Boukus.

Would members please check the board to make sure your vote is properly cast. If all the members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

THE CLERK:

Consent number -- Consent Calendar Number 3

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	147
Those voting Nay	0
Those absent and not voting	4

SPEAKER SHARKEY:

The Consent Calendar is passed.

Will the Clerk please call Calendar 506?

THE CLERK:

Calendar 506, on page 25, favorable report of the joint standing committee on Appropriations. Senate

Bill 55, AN ACT CONCERNING COMPLAINTS THAT ALLEGED MISCONDUCT BY LAW ENFORCEMENT AGENCY PERSONNEL.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. I move for the acceptance of the joint committee's favorable report and passage of the bill.

SPEAKER SHARKEY:

Question's on acceptance of the joint committee's favorable report and passage of the bill.

Will you remark, sir?

REP. FOX (146th):

Thank you, Mr. Speaker.

The Clerk has an amendment, LCO Number 4583. I'd ask that it be called, and I be allowed to summarize.

SPEAKER SHARKEY:

Will the Clerk please call LCO 4583, which has been previously designated Senate Amendment "A."

**S - 676
CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2014**

**VOL. 57
PART 8
2311 – 2667**

Madam President, if the Clerk would call as the next item calendar page 37, Calendar 195, Senate Bill 61.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On page 37, Calendar 195, Substitute for Senate Bill Number 61, AN ACT CONCERNING WORKERS' COMPENSATION AND LIABILITY FOR HOSPITAL AND AMBULATORY SURGICAL CENTER SERVICES, favorable report of the Committee on Labor and Public Employees. There are amendments.

THE CHAIR:

Good evening, Senator Holder-Winfield.

SENATOR HOLDER-WINFIELD:

Yes, good evening, Madam President.

I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

The motion is on acceptance and passage. Will you remark, sir?

SENATOR HOLDER-WINFIELD:

Yes, thank you, Madam President.

Madam President, actually the Clerk is in possession of an amendment which is LCO 5116. I would ask that it be called and I be granted leave of the chamber to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 5116, Senate "A," offered by Senator
Holder-Winfield and Representative Tercyak.

THE CHAIR:

Senator Holder-Winfield.

SENATOR HOLDER-WINFIELD:

Yes, thank you, Madam President.

This amendment --

THE CHAIR:

Would you move for adoption sir?

SENATOR HOLDER-WINFIELD:

Yes, I'm sorry, Madam President. I move
adoption.

THE CHAIR:

The motion is on adoption. Will you remark, sir?

SENATOR HOLDER-WINFIELD:

Yes. Thank you, Madam President.

This amendment is an amendment that strikes the underlying bill and puts in its place language that allows us to have the workers' compensation commissioner by January 1, 2015. The chairman of the workers' compensation commission in consultation with many of the people who are involved in issues of workers' compensation and reimbursement, which would be employers, hospitals, ambulatory surgical centers, third-party reimbursement organizations, to set a fee schedule.

Forty-one states have done something similar to this. This is an issue that employers, hospitals have been going around and round with in the

State of Connecticut and in other states and there is a lot of urgency to it because unfortunately coming to agreement has not been something that we've been able to do.

This is a good fix to costs that seem to be rising and I would urge the chamber to adopt the amendment.

Through you -- to you, Madam President.

THE CHAIR:

Thank you.

Will you remark?

Senator Markley.

SENATOR MARKLEY:

Thank you very much, Madam President.

And I rise in support of this month and I rise to thank Senator Holder-Winfield for bringing it forward, and for the work that he has done and before him Senator Austin as well and Representative Tercyak, to try to resolve a very -- as the Senator said, a very urgent issue, a very complicated issue, a very serious issue and one that I have to say is generally outside of the expertise of the Labor Committee.

It first came before us in the last session as a result of a judicial ruling, and rather threw a system into turmoil that we rely on and the predictability of costs on which we rely on. And I think a lot of discussion has taken place between now and then without coming to an adequate conclusion.

I think through this amendment we put this decision into the hands of the people who are absolutely the most fit to make it and it will be made in a timely fashion to permit things to go forward safely. And if we had concerns about it as a Legislature we can come back and re-examine

it.

So I rise in support of the amendment, which will in effect become the bill. And when the amendment is adopted I will be strongly in support of the bill as well.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will your remark further?

Senator Holder-Winfield?

If not I will try your minds on Senate "A." All those in favor of Senate "A" please say, aye.

SENATORS:

Aye.

THE CHAIR:

Opposed?

Senate "A" is adopted.

Will you remark?

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

Madam President, I'd like to thank Senator Holder-Winfield for his efforts on this and bringing people together to try to work out a resolution recognizing the issue that was causing a lot of constraints in the medical community and in the hospitals. So I'd like to thank the Senator for his hard work on this and I appreciate the amendment.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

If not Senator Holder-Winfield.

SENATOR HOLDER-WINFIELD:

Yes, Thank you, Madam President.

If there's no objection I would ask that this
bill be placed on the Consent Calendar.

THE CHAIR:

Seeing no objection? Seeing no objection, so
ordered.

At this time, Senator Looney.

SENATOR LOONEY:

Thank you. Thank you, Madam President.

If the Clerk would mark calendar page 37,
Calendar 250, Senate Bill 243, passed
temporarily. I believe we're waiting for an
amendment on that bill.

And if the Clerk would call as the next item --
or if we might stand at ease for just a moment.
I believe the next item may not be quite ready.
If we might stand at ease in the hope we will
have a vote on the Consent Calendar soon.

THE CHAIR:

The Senate will stand at ease.

(Chamber at ease.)

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Madam President.

THE CHAIR:

Oops, I'm sorry, Senator McLachlan.

Senator Looney, why do you stand, sir?

SENATOR LOONEY:

Thank you, Madam President.

If this item might be passed temporarily. We will return to it shortly but first would ask the Clerk to read the items on the Consent Calendar so that we might proceed to a vote on the Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On today's Consent Calendar, page 4, Calendar 292, Senate Bill 438; on page 7, Calendar 335, House Bill 5149.

On page 12, Calendar 392, Senate Bill 261; Calendar 400, Senate Bill 155; Calendar 409, Senate Bill 491.

And on page 33, Calendar 45, Senate Bill 14.

On page 34, Calendar 130, Senate Bill 45; also on page 34, Calendar 133, Senate Bill 179; Calendar 100, Senate Bill 55.

On page 37, Calendar 195, Senate Bill 61; page 40, Calendar 271, Senate Bill 194; and on page 41, Calendar 285, Senate Bill 464.

lgg/rd/cd
SENATE

182
May 2, 2014

THE CHAIR:

Mr. Clerk, will you call for a roll call vote on the Consent Calendar. The machine is open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Immediate roll call on the first Consent Calendar for the day has been ordered in the Senate.

THE CHAIR:

Have all members voted? All members voted. The machine will be closed.

Mr. Clerk, will you please call a tally on the first Consent Calendar?

THE CLERK:

On today's first Consent Calendar.

Total Number Voting	35
Necessary for Adoption	18
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

The Consent Calendar passes.

Senator Looney, shall we return to page 42?

SENATOR LOONEY:

Madam President.

THE CHAIR:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**LABOR AND
PUBLIC
EMPLOYEES
PART 1
1 – 550**

**2014
INDEX**

31 February 18, 2014
jat/lab LABOR AND PUBLIC EMPLOYEES 1:00 P.M.
COMMITTEE

happy to sit with you.

TERESA YOUNGER: Thank you.

SENATOR OSTEN: Are there any other questions?
Thank you very much.

TERESA YOUNGER: Thank you.

SENATOR OSTEN: Nice seeing you today.

TERESA YOUNGER: Thank you.

SENATOR OSTEN: The next speaker is Steve Werbner,
CCM. Good afternoon.

STEVE WERBNER: Good afternoon, Senator Osten.
Thank you very much for allowing me to speak,
member of the committee.

My name is Steve Werbner, Town Manager of
Tolland. I'm a member of the Connecticut
Conference of Municipalities Board of Directors
and Chairperson of their committee on labor
relations.

I'm here to speak primarily on one bill, but I
will mention two other bills that CCM is in
favor of. That's Senate Bill 63, which is an
act concerning timelines for binding
arbitration awards, and I appreciate the
Chair's remarks on that bill previously as well
as Senate Bill 61.

In terms of Senate Bill 56, the Connecticut
Conference of Municipalities is urging the
committee to take no action on that particular
bill. This bill, Senate 56, would mandate the
expansion of Workers' Compensation coverage to
all individuals, private and public employees,
with an emotional or mental impairment as a

Connecticut or looking to leave Connecticut when you vote on this bill.

Thank you very much.

SENATOR OSTEN: Are there any questions? Thank you very much, Senator.

SENATOR KANE: Thank you.

SENATOR OSTEN: Appreciate your testimony.

We have Trevor Davis. And just so everybody knows, we're going to try and stay here as late as possible to make sure that we get in --

REP. TERCYAK: We'll stay here until we're done. It's (inaudible) as late as possible.

SENATOR OSTEN: My Co-Chair lives much closer than do. So I figure it's Connecticut. We might as well learn to drive in the snow.

Thank you very much, Mr. Davis.

TREVOR DAVIS: Thank you for the opportunity to come today and speak before you on Senate Bill 61. My name is Trevor Davis. I'm a representative for Fair Pay Solutions. We're a bill review service company in the Workers' Compensation space, and we've been participating in the Connecticut system since 2007.

I come to testify today in support of Senate Bill 61 for two main reasons. The principal reason is that the bill increases stability in the Connecticut Workers' Compensation system. The way Senate Bill 61 is structured, it sets forth a very clear formula for which compensable hospital care will be reimbursed up until the time the Work Comp Commission, as

authorized under the bill, puts together an administrative system for determining what the payments for hospitals will be as of July 1, 2016.

So in essence, you'll get present day stability and future stability once all stakeholders and systems are able to get together and have their concerns and interests heard by the Chairman to determine the best way to, on a future basis, pay for hospital care.

Part of the reason the bill is structured in a way that increases the stability of the system is that it informs all stakeholders, whether it's an injured worker, whether it's a medical provider, whether it's an employer to look to the Workers' Compensation Act to help determine their responsibilities and duties, and we think that consistency within the Act is important and critical.

And it is also consistent to treat all medical providers on the same -- in somewhat the same level, as the Chairman of the Work Comp Commission currently has the authority to regulate non-hospital providers as well, as represented by the practitioner manual.

In summary, I just reiterate standing support of Senate Bill 61. I urge the committee to adopt it, and I'm available to answer any questions you might have.

SENATOR OSTEN: Are there any questions? Senator Markley.

SENATOR MARKLEY: Thank you. This is an issue that we discussed on the committee, you and I have discussed personally in the past. One that I think is particularly important of the things

we have before us.

I guess, I'd start by asking this. This is something that's been handled by negotiation between hospitals and insurers in the past. The system went along that way for many years. There was a decision, as I understand it, which rather changed the -- let's say, the terms between the partners in the negotiation. But is it the case that still most of the Workers' Comp that's being paid is being paid under negotiated agreements between insurers and providers?

TREVOR DAVIS: In Fair Pay's experience, there are still a large number of payers and hospitals who are operating under agreed terms. There are some facilities that decline to negotiate in light of the school craft decision that you'd mentioned, and some of the negotiations that do occur are occurring on more difficult terms than had previously been in effect.

One of the advantages and the strengths I see in the bill as drafted is that there is a presumption that negotiations between the affected parties are still favored and will be honored by the Commission. I think that is one of the best features that increases the stability, increases the structure of the system.

SENATOR MARKLEY: Speaking of stability, how stable are the Medicare reimbursement rates that we would presumably, eventually be basing our reimbursement rates on? Are those things that are -- that are fairly consistent from year to year, or do they fluctuate a good deal?

TREVOR DAVIS: Based on our experience in other jurisdictions with Work Comp systems that have

adopted a Medicare-based fee schedule and Medicare-based payment system, some of the states take different approaches to deal with, as you say, the fluctuations.

The system does -- the Medicare payment system does fluctuate based on what the federal government thinks is important, how they choose to reimburse medical providers who participate in the Medicare system. Those states who adopt it for the Work Comp system, some follow wholesale what the feds do, and some develop their own conversion factors, either breaking down by specialty or breaking it down by providers.

So the system does fluctuate. There are ways to accommodate that, but it's not a simple plug and play, in my opinion.

SENATOR MARKLEY: Are there other systems in place that would -- that would present us with a viable alternative to adopting the Medicare system? Is there anything else that is kind of a benchmark that would be accepted as a starting point by all parties?

TREVOR DAVIS: There's -- I think there's a large variety of different payment structures across the country. There are some systems that are based on hospital charges or comparison of community-based charges. There's a system in Wisconsin that's based on provider -- a certified database by provider charges.

Some states are operating without a fee schedule in place, such as New Jersey and Missouri, where the statutory requirement is not what -- not what a medical provider charges or what the cost structure is, but instead what the medical providers accept as payment in full

from any type of payer, whether it's a Work Comp payer, or private health payer, or self-payer.

So there are a large variety of options. I think Medicare is a -- at least for practitioners, is a relatively well-used system for Workers' Compensation. It's not the only system, and I think one of the advantages for the way the bill is structured right now is it keeps all options on the table for the future for Connecticut Work Comp system.

SENATOR MARKLEY: Thank you.

SENATOR OSTEN: Are there any other questions?
Thank you very much for coming. Appreciate it.

Next up is Lori Pelletier followed by Sal Luciano.

LORI PELLETIER: Good afternoon, Senator Osten, and Representative Tercyak, and members of the Labor and Public Employees Committee.

I'm Lori Pelletier, and I serve as the Executive Secretary Treasurer of Connecticut AFL-CIO.

You have written testimony, so I just want to touch on a couple of things because I know that the list is long and far-reaching, and there is snow outside after all.

Senate Bill 32, an act concerning family wages. Again, we applaud the Governor and the administration for his initiative to bring this up. Again, we would echo the remarks about tipped workers in that, you know, we all think of that they make an exorbitant of money, and maybe in some restaurants they do. But we all

SB56

SB60

HB5066

SUE GARTEN: Yes, they have.

REP. TERCYAK: Okay, great. Thank you very much for coming in front of us.

SENATOR OSTEN: Thank you.

REP. TERCYAK: We appreciate your testimony and making those things clear.

Edward Romero, followed by Jim Smith, followed by Joan Orowson. Welcome, Mr. Romero.

EDWARD ROMERO: Good afternoon. My name is Ed Romero. I'm the Chief Financial Officer at Waterbury Hospital. I'm here today to testify in opposition to Senate Bill 61, an act concerning Workers' Compensation and liability for hospital services.

First I'd like to point out that the legislation does not assist injured workers or improve the business climate in Connecticut. We believe that it further destabilizes the already fragile hospital finances by not paying full cost for the care delivered to the injured workers.

There are two important points to make about Fair Pay Solutions' practice of inappropriate discounting hospital bills. Fair Pay Solutions is a Texas-based re-pricing company. The first is that the initial bills submitted by the hospital for care delivered to the injured workers are based upon the hospital's public charges. These practices are set forth in Connecticut General Statutes, which require the hospitals to be reimbursed based upon freely negotiated rate agreements or published charges.

The second is the Fair Pay Solutions' practice of discounting bills was overturned by the Workers' Compensation Commission, and his decision is now before the Connecticut Supreme Court.

The final brief was filed on February 6th, and the case will be argued in a few months and decided thereafter.

The Commission ruled that the carriers and the employers were responsible for the full charges submitted by two Connecticut hospitals. He ordered the carrier and employers to pay full balance owed in keeping with the current law. However, Fair Pay is not abiding by this ruling and is not moving forward on the existing statute.

Instead, they are seeking legislative solutions to defy the Commissioner's ruling and overturn the longstanding hospital reimbursement requirement under current law.

For Waterbury Hospital, this means millions of dollars, since our hospital treats a large percentage of Workers' Compensation patients and injuries. Fair Pay Solutions has reviewed and is handling hundreds of Workers' Compensation Commission cases for bills submitted by the hospital, and they have substantially underpaid us for services already rendered.

That is what is at stake today for Waterbury Hospital. I am deeply concerned about the future of this if this bill is passed and is enacted. There are a number of specific reasons that I've cited in my testimony why this should be rejected.

In sum, Fair Pay Solutions to underpay a hospital is arbitrary and should be challenged. If carriers and providers negotiate rates or employees set up approved managed care plans, there is no need for individual review of bills by re-pricing companies such as Fair Pay Solutions. The arbitrary claims settlement methods of Fair Pay should be examined by the Labor and Public Employees Committee or the insurance committee.

Waterbury Hospital respectfully recommends that the committee reject his legislation.

And thank you very much for your consideration. I'll be happy to answer any questions.

SENATOR OSTEN: Any questions? Thank you very much.

EDWARD ROMERO: Thank you.

SENATOR OSTEN: Jim Smith.

REP. TERCYAK: Welcome, Mr. Smith. You've spent a lot of time here recently.

JIM SMITH: Good to see you, Mr. Tercyak, Senator Olsten, Representative Smith. Thanks for this time.

I am James H. Smith. I am president of the Connecticut Council on Freedom of Information, which has been advocating for open democratic government since 1955.

We oppose raised Bill 5063, an act concerning the disclosure of pardon applications.

The first mistake the General Assembly made was to erase history by erasing pardons and past crimes committed. Now there are plans to

Freedom of Information Commission that adjudicated the case and said that this is a -- this is a system of government that is open to the public, just as -- just as a criminal trial is open to the public. A pardon procedure should be open to the public. That's our system of criminal justice. The more we hide it, the more abuse that can happen.

REP. TERCYAK: Thank you very much. Thank you very much.

JIM SMITH: Thank you very much, sir.

REP. TERCYAK: Joan Orowson, followed by Doug Wade, followed by Kevin Burgess.

JOAN OROWSON: Hi. Good afternoon, Senator, Representatives, and members of the Labor and Public Employees Committee. Thank you for the opportunity to express my serious concerns about raised Bill No. 61, and urge you to reject it.

I am Joan Orowson, Director of Patient Business Services at the William W. Backus Hospital in Norwich. Our hospital is one of the parties involved in the important Workers' Comp Commission case, which was decided September 17, 2012, by a Workers' Comp Commissioner.

That decision rejected claim settlement practices then used by Fair Pay Solutions in Connecticut and ordered Fair Pay and its clients instead to follow longstanding requirements governing hospital reimbursements. Those reimbursements set forth in Section 19a-646 of the Connecticut General Statutes state that hospitals are to be reimbursed based on freely negotiated rate agreements or on published charges.

REP. TERCYAK: Thank you very much. All set. Thank you. Thank you very much for coming.

I'm sorry. Yes, Senator Smith. I'm sorry.

REP. SMITH: Next it will be Congress, but -- please don't wish that on me.

Just one question, this \$0.60 that you had you to pay out of your pocket to the employer for the credit card, does that ever get reimbursed to you?

ANDRE SMADARIAGA: No, never.

REP. SMITH: Never? Okay. Thank you.

STEVEN MILLER: And from like three years that everyone -- none of us get that.

REP. TERCYAK: Thank you.

SENATOR OSTEN: Bob Kehuna, please. And after that Steve Frayne, and George Frantzis, and Eric Brown.

BOB KEHUNA: Thank you, Senator Osten, Representative Tercyak, Senator Markley, Representative Smith.

My name is Bob Kehuna from the Insurance Association of Connecticut. I'm here today to support Senate Bill 61, an act concerning Workers' Compensation and liability for hospital services.

This bill is intended to address an important situation that was created by a recent decision by the Workers' Commissioner, which, in effect, removes any incentive for hospitals to

negotiate fairly with payers, as they can simply charge their schedule of bill rate, their paymaster rate.

This scenario will encourage counterproductive cost-shifting by hospitals to Workers' Comp cases. Currently, a hospital's published charges for a service may be several times higher than the rate the same hospital charges for the same services performed pursuant to a negotiated agreement.

Numerous recent press reports have highlighted the fact that there is very little, if any connection, between the charge master charge and what it actually costs to provide the service.

Most states have a fee schedule of some sort as it relates to Workers' Compensation claims and hospital services. We would suggest at the IC that the best way to address a fee schedule in Connecticut would be as other states have done and base it on Medicare that provides a stability, a predictability that would benefit the entire system.

We would also suggest that this bill be expanded to apply to surgical centers, ambulatory surgical centers. Experience in other states have shown that if you don't provide this regulation as to the fee schedule across the board, problems can result.

For the first time in Connecticut in 2012, medical payments rose to a level equal to 50 percent of the total Workers' Comp benefit cost, as medical costs continue to rise at a rapid level. The potential for this recent decision to result in marked increase -- a further marked increase in Workers'

Compensation cost is clear. This unnecessarily will increase costs, forcing both public and private employers to pay, having a direct negative impact on the state's economy.

A fee schedule will provide the necessary mechanism to set reimbursement rates for hospital ambulatory services under the Workers' Comp Act that are proper and fair to payers and providers.

We urge support of the bill. Thank you.

SENATOR OSTEN: Thank you, Bob. This is something that we attempted to work out last year, and here we are again. So I'm hoping to come to some resolution.

Is there anything in the bill that you would like to see different than what it is?

BOB KEHUNA: We are reviewing the language that exists right now for the interim period between passage of the bill and the implementation of the fee schedule. I don't have an answer for you right now. There's some conflicting input I'm getting as to whether that might need to be tightened up in some way, but I would like to get back to the committee when I have an answer, if that's okay.

SENATOR OSTEN: That would be perfect. Are there any questions? Representative Smith, Senator Markley. Senator Markley.

SENATOR MARKLEY: Let me ask something like the same question I asked a couple hours ago when we touched on this subject for a moment. This is a subject that I'm fascinated by and need to learn about, but will not -- still will not understand when the bill leaves the committee,

I guarantee.

One of the things that I've assumed was that the Medicare -- going to the Medicare rates would be, as you said, predictable and reasonably stable. But in conversation today somebody said to me, "Well, it's not that simple. It's not that simple to figure what those Medicaid rates are, and those rates are not as predictable as you might expect. That they tend to vary year to year more than you'd think."

You certainly are in a good position to tell me whether that's right or wrong. What would you say about that?

BOB KEHUNA: Well, it's our understanding that one of the advantages of going to a multiplier of the Medicare reimbursement system would be that providers know that system. They live with it every day. And it is true that it is updated, but we would think that would be a good thing; that it's not static and would be updated on a regular basis, to all parties' benefit.

SENATOR MARKLEY: Would there still be the option, under such a system, of people coming to an agreement on rates by contract, as they do sometimes now or do generally now, and making a decision to work it out individually between an insurance company and the provider, or would it simply mandate that everybody do it this way?

BOB KEHUNA: The states that I'm aware of that have such a system, either explicitly in the law or implicitly through practice, allow for negotiations.

BOB KEHUNA: Thank you very much.

REP. TERCYAK: Thank you. When you say that basing charges on Medicare and multiplier would be a good thing, I think so too. The last state, I think, to institute that came up with rates of twice Medicare. Were you thinking of a smaller multiplier?

BOB KEHUNA: Yes. There were recent press reports that stated -- and I forget the source -- that stated that hospitals in Connecticut accept around 120 percent of Medicare from insurance companies. I'm assuming in the context in which it was given, that information might relate solely to health insurers, but we certainly don't think a number should be much above 120 percent. A service is a service, and costs shouldn't be shifted to Workers' Comp unnecessarily.

REP. TERCYAK: I have no trouble agreeing with that if the state paid what services cost, but we don't. So it's getting shifted somewhere.

Do you know -- and there's no reason you should have to know -- what the range of multipliers is for states that have Medicare Plus as their Workers' Comp?

BOB KEHUNA: I'm aware one state that actually is below Medicare. The multiplier is less than one, and it goes up to as high as the state you just referenced, which I believe ends at 200 percent of Medicare.

REP. TERCYAK: Thank you very much.

SENATOR OSTEN: Any other questions? Thank you very much, Bob, for coming.

BOB KEHUNA: Thank you.

SENATOR OSTEN: Just stay in touch on this.

Steve Frayne, Connecticut Hospital Association.

STEPHEN FRAYNE: Good afternoon. My name is Stephen Frayne. I'm the Senior Vice President for Health Policy of the Hospital Association. I provided you my testimony in writing, so I'll summarize just two key points.

The first relates to this issue about what would be the standard of payment upon passage of the bill and prior to July of 2016. As the bill is currently drafted, as we understand it, it would set a new standard of payment for Workers' Comp, which is about at the level that is reserved solely for those individuals who are both uninsured and extraordinarily poor. It would not acknowledge or take into account the fact that there's a tax on hospital services that adds about 7 percent to the cost. It would not take into account the fact that there's a Medicaid payment shortfall that adds about 20 percent to the cost. It would actually require that hospitals accept from Workers' Comp insurers a level of payment which is about 40 percent below what they would expect from any other health insurer in the state. Now, that just seems to me to be a level which is well below any sense of rationality or appropriateness.

In terms of what would be effective in 2016, again, there's no standards in this legislation. It essentially says the Workers' Comp Commissioner will consult with some folks, make a decision, but there are no rules around how that decision is going to be made, what the appropriate levels would be. And if we are to assume we would be coming off of a level that's reserved for the uninsured and extraordinarily

poor individuals in the state, it's hard to imagine the fee schedule could be reasonable.

REP. TERCYAK: Thank you very much. Yes. We do have your testimony. Thank you for summarizing it instead of reading it.

Any questions? Thank you very much.

STEPHEN FRAYNE: Thanks.

REP. TERCYAK: I'm sure we'll be talking again. I appreciate this. Thank you.

George Frantzis from Quassy Amusement Park, followed by Eric Brown, followed by Chris Hartley.

GEORGE FRANTZIS: Good evening, distinguished members of the Labor and Public Employees Committee, and thank you for taking the opportunity to hear my testimony today.

SB32

First of all, I'd like to introduce myself. My name is George Frantzis. I'm one of the owners of Quassy Amusement Park in Middlebury, and I'm here representing our facility and Lake Compounce, who couldn't make it. Mr. Brick got stuck in New Jersey. Something about having trouble getting across the bridge. I'm not too sure what that's all about.

Anyway, first, today we are faced with the grim facts that operational costs are skyrocketing. Businesses and families continue to leave the state, and higher taxes burdens are levied on those left in the wake.

With roughly only 100 to 130 operational days for our seasonal businesses to generate cash flow to support what we have as 12 full-time,

So I would just like to, if you wouldn't mind, extending to your members how that we here know what they're going through; that we are concerned about the situation at large and are trying to address the situation. And we appreciate everything that they have done for the citizens in the state of Connecticut and in Newtown.

Also, I find it particularly deplorable that they feel like they are not being taken care of, and I'm concerned and worried about people working as police officers who have not had the ability to address issues of stress and posttraumatic stress.

So thank you very much for coming.

ERIC BROWN: Thank you, Senator. I'll pass that along to them as well.

SENATOR OSTEN: Chris Hartley is next from Saint Francis Hospital, followed by Eric Gjede.

CHRIS HARTLEY: Good evening, Senator Osten, Representative Tercyak, members of the committee. Thank you for having me here tonight.

I'm here to speak against Senate Bill 61 as written. My testimony is filed, so I'll only make a couple requests.

One of the major premises of this bill is the impression that hospitals won't negotiate with individual insurers on Workers' Compensation claims. That's not true. As a matter of fact, at Saint Francis alone, we've negotiated 66 different contract settlements with individual insurers as part of this, very similar to what

we've done with all other insurers for the commercial industry.

So one of the questions you have to ask yourself right now is what is this group seeking that anybody from Blue Cross, Connecticut Care, Travelers wouldn't be seeking? A set of rates below what would be gained through valid negotiation between two parties in favor something they can get to avoid. What? The fact that they don't want the cost shift from the hospital tax that nobody else is paying for? The fact they don't want to pay for the Medicaid cost shift, or the fact that Medicaid doesn't pay its fair share? The fact that Medicare is more and more being rated to pay for other expenses like the most recent one for the military cost of living increase this year, and, therefore, can't be available to pay for the true cost of healthcare?

If everybody in the country isolates themselves from the true cost of healthcare, how do we maintain the kind of healthcare system we need in this state to attract people to live in the state, to attract businesses to be in this state? We can do it by simply avoiding the fact that we've got to pay for the cost of the services that we need.

As a matter of fact, if you look at what's happening in the state right now, hospitals have eliminated 1,400 jobs. Virtually all those jobs paid more than \$10.10 an hour. We're sitting here worrying about trying to provide that for people. Yet we're busily taking apart an industry that already provides those jobs.

So in the reality of the situation, regardless

of who comes to you and asks for a special deal, the truth is we need clean air, pure water, a good educational system, and a basic high-quality healthcare system, if we're going to have the kind of quality of life in Connecticut to attract businesses to grow our state overall.

We're a small state. We're not increasing in size. We're aging. We're going to have a healthcare system that meets those needs. We need to think about the legislation we pass to make sure that it doesn't take apart the very infrastructure we're trying to support.

All I ask is you think about that if you go forward with this bill. Thank you.

SENATOR OSTEN: I have a couple questions, if you don't mind. I'm sorry.

So one of the things that constituents of mine -- and this is -- you know, this has sort of been painted in some respects about fair pay in hospitals, but more than fair pay have come to the committee and talked to us about hospitals not being, in some cases, not all cases, but in some cases, unwilling to negotiate a fair settlement on some of the issues, to include the state's own Department of Administrative Services, saying that they're very concerned about the process moving forward based on some of those.

So I just want to say that's it not -- well, I don't believe it's all on the hospitals. I don't think it's on fair pay, and we've had other people that have actually come forward to talk about this issue with us. So I wanted to say that.

And none of here want to see a bad healthcare system. But one of the questions that I have had with the hospital association and some of the other hospitals is can you tell me how you figure out actual costs? And what is the difference between actual and billable costs?

Finally, I think it was Mr. Frayne that said that it's done by man minute, but even -- I've had constituents, just regular people who have gone to the hospital and said I want to pay out of pocket for this particular surgery. Can you tell me how much it's going to cost? It's just a question. Why is it so difficult to figure out actual costs? If in those discussions you carve out the doctor's fees because the doctors have a different charge, and you carve out most of the specialists because they also charge outside the actual costs. Then the actual costs are, you know, from my perspective, and I'm not a hospital person; so I'm asking the question. What is included in actual costs, and how do you get to a number? So that's my question.

CHRIS HARTLEY: Well, obviously actual costs varies depending on how much service you've provided in a given time period and what you're paid by all the different payers that are involved because you're going to provide the service to everybody.

If, for example, in the case of Medicare/Medicaid that make up 62 percent of our business, I can't count on from year to year how much revenue I'm going to get for the number of patients I provided, and the number of those patients shift each year. And I've got that much more shortfall that I haven't anticipated.

If the Legislature decides this year to vote me \$19 million less over the last two years in reimbursement because they're shifting that from the taxes that I was getting paid for from the hospital tax to pay for other costs of the healthcare system, my costs are going to vary.

So if you ask me what my surgery costs are in a given day, it's going to vary, both with the individual that's involved and also what kind of overall volume and what payers I'm getting in the system. It is a very complicated situation, but so is trying to make ends meet on the actual cost basis in the system that we have where you cannot count on reimbursement to stay the same month to month, year to year the way things are set up right now.

SENATOR OSTEN: And I understand that hospitals are large employers, and that you have looked at your individual hospitals and, in many cases, we have lost jobs that are paying jobs in individual hospitals. But is it then your contention that the actual costs that are not met by an inadequate Medicare or Medicaid system should be then pushed on to the businesses in the state of Connecticut because that's where it would essentially go to? Just a question.

CHRIS HARTLEY: The cost shift has always been a situation where the state itself, as the insurer of last resort, fails to meet its obligations. So who in turn then must pay for the costs of those patients? It has to be the other payers in the system because the service has been rendered. It's always a retrospective system. Services given first. Then costs are calculated against the revenue received.

The reality of the situation is it's the state

failing its obligations that begins this snowball going down the hill, and until we're willing to accept that and the state of Connecticut pay its fair share, we're going to have the problem of cost shift to somebody.

Now, we can always limit the number of cost shifts, and then what we will have: hospitals fail, services stop, length of time for individual cases to be seen stretch, people leaving the state, both providers and individuals, because they can't get the services they need when they need it.

We're one of the few businesses that available 24 hours a day, 7 days a week to meet any demand that comes forward. That's the reality.

SENATOR OSTEN: I work in one of those 24-hour a day businesses.

CHRIS HARTLEY: Yeah.

SENATOR OSTEN: We have to meet a lot of demands.

CHRIS HARTLEY: That's right.

SENATOR OSTEN: Some of them didn't seem to be paid for either.

Nonetheless, I really appreciate you actually saying that this is a cost shifting problem that we have because I do think that that's really a big part of the problem, and I am just not certain that it should go on the backs of the business. That's where my concern is because I'm not -- our Workers' Compensation costs, by all accounts, are higher than other Workers' Compensation in other states. And so I'm just concerned about the cost shift into the Workers' Compensation.

CHRIS HARTLEY: Well, the issue though is where does it go then? What services -- what services won't you provide? What people will you deny service to, if you don't provide for the services available? Somebody has got to pay for it.

SENATOR OSTEN: I agree. Somebody has to pay for it, but I'm not certain it should be those businesses.

CHRIS HARTLEY: Well, then it's the state --

SENATOR OSTEN: It's just a dispute that we have.

CHRIS HARTLEY: If the state would step up to its fair share, it wouldn't have to be as much on the businesses.

SENATOR OSTEN: Peter is telling me in my ear that I need to stop. So --

REP. TERCYAK: No. I'm just saying that you're right.

The costs that we're talking about shifting, we have made a decision that when the government pays for services, those services are loss leaders. We're getting -- you know, you're losing money in volume, but we're giving you volume to lose money by. And those costs have to be made up elsewhere; that's close to arithmetic I think.

Do you have -- do you have any -- well, are you aware that in Massachusetts they have a public option for Workers' Compensation insurance, and that that -- many people think that that is why their Workers' Compensation costs are so much lower than ours?

CHRIS HARTLEY: That I'm not aware of, sir.

REP. TERCYAK: Thank you. Well, it's true. And, you know, it's a system that may have other issues than just cost shifting, although, trust me, I have to agree with you. We're not going to stop cost shifting. We're not going to start paying our fair share. It's just -- you know it, it can't happen, not with the model we have right now, and how we collect our money, and how we decide to spend it.

Are you -- do you have any knowledge about insurance company profit rates? For instance, there's, under the Affordable Care Act, a limit to how much an insurance company can have for expenses and profits.

CHRIS HARTLEY: That's correct. I'm aware of that.

REP. TERCYAK: Yes. Now, my understanding is that Workers' Comp is not the same as health insurance and does not have to follow those standards.

CHRIS HARTLEY: Workers' Comp in total, that's correct.

REP. TERCYAK: Yes. And that's part of the reason why Workers' Comp insurance companies, some of them that deal in this state, have profit margins as high as 30, 40 percent. Again, it's not just about shifting costs, like you have no choice. There are other things that are affecting that too. So I think for a while, I'll stop there. We'll see how it goes.

Thank you very much. You brought some very good points forward. I appreciate it.

COMMITTEE

EFRAIN TORRES: Thank you.

SENATOR OSTEN: Appreciate it. Bonnie, you're up, followed by Andy Markowski.

BONNIE STUART: Good evening. My name is Bonnie Stuart, and I'm Vice President of Government Affairs for the Connecticut Business and Industry Association.

I'm here today to support Senate Bill 61. Instead of going through everything you've heard already today, I'd just like to say this is not an issue about fair pay. That's may be how it started, but it has gone way beyond that. And it's the desire of the employer community, which the hospitals are part of, not to harm the hospitals. What we're looking for is more to keep up where we were prior to a recent decision.

So before you I have several charts, and the reason why I brought those is because Connecticut Workers' Comp system really is on the verge of going into crisis mode. So you say what on Earth is that woman talking about? Well, I'm talking about the fact that we could easily see, and actually have in some cases, hospital costs for Workers' Compensation surge. And the second thing is, that if things aren't taken care of in terms of knowing what fees should be, in terms of having either a definition for actual costs or hospital fee schedule, the Workers' Comp Commission has already indicated that 3 Commissioners out of their 15 -- so one fifth of them -- will be diverted from resolving claimants' disputes to move over to resolving hospital fee disputes. That really hurts employers and employees, and it doesn't help the state of Connecticut in terms of our (inaudible).

So why is this going to happen? Before you, the first chart shows that out of the medical costs for Workers' Comp, which have been growing, 32 percent are hospital costs. The second chart I think is really important and gets to a lot of things you were talking about earlier, and that's cost shifting.

The very first little green block shows what a health insurer pays for a shoulder -- this is an actual case for the town of East Hartford with one of the Hartford hospitals. So they paid \$4,000 for the shoulder under general health insurance. Under Workers' Comp we paid 14,000, but under this recent decision if it was carried forward and started to be implemented, we would pay 44,000.

So it's not a question of cost shifting. Cost shifting already occurs, and we understand that. We actually fight every year for the hospitals to get more money so that they are totally reimbursed for the Medicare costs. This is more a question of don't let us be priced out.

Not all the hospitals are not negotiating. Some are. Some are out there negotiating in good faith, but the problem is, as you heard from the State of Connecticut itself as well as some of our self-insurers, including self-insured trusts like the Workers' Comp Trust, who submitted testimony today, we are seeing that some hospitals, and some very large hospitals, are refusing to do that. What makes matters worse, in some cases, they're actually balance billing the employees, which is not allowed already, and that's creating even more problems. You know, when you've got somebody out on Comp, the last thing you want them

getting is a bill from the hospital because the hospital doesn't think they got enough money from the employer.

So it's really important that we address this situation. So between what I've shown you here -- it's not a question of not being willing to pay a fair share or pick up part of the cost sharing or shifting. That happens now, as you can see between the 4,000 and the 14.

If you looked at that 120 percentage of Medicare that the health insurers pay, that would mean this actual costs, under Medicare rules, \$3,200, but we're paying 14,000; health insurer, again, 4,000; Workers' Comp, 14 currently. If that decision does not get resolved by you guys, we'd be paying 44,000 in some cases, and according to the Workers' Comp Commissioner himself, one fifth of our Commissioners would be diverted to resolving hospital disputes.

We are trying to work with everybody on this issue. We have no desire to harm the hospitals. To be quite honest, if you do something to harm them on Workers' Comp, then it's shifted to where we pay the health insurance. We pay it all. So the question is how do you go about in a fair manner?

Forty-one states have hospital fee schedules now, and Connecticut actually has a Medicare structured fee schedule for all medical providers with the exception of hospitals and surgical centers. So at this point, because we don't have a better resolution, we would encourage you to adopt a reasonable Medicare fee schedule that covers both hospitals and surgical centers.

So we've not gotten complaints from the medical providers that have been under the hospital fee -- sorry -- the medical fee schedule now for close to 20 years.

SENATOR OSTEN: Thank you, Bonnie, for coming and staying. I know that -- I think you were looking forward to leaving early, but --

BONNIE STUART: We were.

SENATOR OSTEN: I know. I could see it in your face when I said we were staying.

But is it not true that under the Workers' Compensation schedule -- under the Workers' Compensation system that there are already fee schedules there for doctors, for other treatments that are out there?

BONNIE STUART: Yes. You're absolutely right. Every medical provider, with the exception of surgical centers and hospitals, are already under a fee schedule. So whether it be a lab where you get your blood tested, an MRI, or, you know, just going to see your orthoped, which tends to be the most popular doctor we visit under Workers' Comp claims, they're all under the medical fee schedule.

SENATOR OSTEN: And the last time that I talked to the Chairman of the Workers' Compensation system he was getting close to 4,000 cases unresolved from a variety of disputes amongst the parties on payment out of charges when they used to be zero.

BONNIE STUART: Right. One of the big concerns that we have is the number of claims that are being filed by hospitals in terms of the disputes regarding the fees or what they should be able

to collect. It's rapidly increasing.

So, for example, our group met with Commissioner (Inaudible) our group. He was nice enough to come and speak to risk insurance managers from both the public and private sector when you put out the request. So our group had him, you know, within last six months. At that time the number of claims that were waiting to be resolved in terms of hospital fees was at 1,800. When I spoke to the Workers' Comp Commission this morning, those that had been filed had increased to 2,500. It's my understanding that there are literally thousands more waiting in the wings.

So what are you going to do? Are you going to let it -- the system be taken over by resolving these disputes in that manner, or are you going to set up a manner for us to -- so you don't have all those disputes.

We're not saying that you can't negotiate anything later, but right now the negotiations aren't taking place with several key hospitals; and that's a real problem. And it's one thing for me to -- I know you're making comments about insurance companies and stuff, but one of the persons I spoke with earlier today who submitted testimony was the town of West Hartford, the self-administered, self-insured, and, again, DAS, you know. If the state of Connecticut, our largest employer, can't get some of the hospitals to negotiate or negotiate in a fair manner, we've got a problem.

So nobody is talking about going down to, you know, 4,000, which is what the general health insurers pay. Nobody is talking about going down to Medicare. We understand that's too low too. We're asking for you to choose a

reasonable level and draft something that makes sense. We need it. We need it if our Comp system is not going to be destroyed.

I raise this issue because in the early 1990s we actually had a lot -- late 1980s, early 1990s, we had a lot of companies leaving Connecticut and actually citing Workers' Compensation as their reason. Some of them were concerned about costs. Others were concerned about the administration. It was a wide variety of things. 

So a number of things were done, including actually doubling the -- or close to doubling the number of Commissioners we had so we wouldn't have the backlogs that we once had. You can't have employees out of work wondering when their next paycheck is going to come, and we had, literally, like a three-month backlog. By hiring additional Commissioners and streamlining the process, making it more efficient, that's down to actually 21 days now in Connecticut. According to the Comp Commission, their estimates are that that will be more than double. They are concerned that they will go up to a two-month delay before you have your first hearing.

You can't -- you can't do that. I mean, obviously you could. I would ask that you not do that. I mean, not only because, you know, I care about people out there, but we have selfish reasons for wanting that. You really harm the workplace when there's employee/employer disputes taking place. The quicker we can resolve those through the Comp Commission is really important.

And one of the things that's great about Connecticut's Workers' Comp system is you don't

have to hire an attorney. Only 10 percent of all our claims ever go to the Comp Commission. Of those claims, 90 percent are resolved at the very first level, the informal hearing, so before you ever have the hearing. Again, it's pretty funny that 90/10 sticks with it pretty much all the way through the process.

So we have very few claims that aren't resolved in a fairly quick manner, but that's because you have the Comp Commissioners there to resolve those disputes now.

These hospital fee disputes not only will occupy the time in terms of the number of claims that they have to resolve, but the amount of time.

I know that you guys have reached out to a certain extent to the hospitals to find out, you know, how you, the hospital, figures out what your charge master is going to be, a lot of unanswered questions. We've actually had hospitals tell us point blank, "We can't tell you. We don't understand how much it costs to provide a certain service." That doesn't mean that they don't know overall what the cost of running the hospital is, but it's very difficult for them to determine that.

At the same time, you've got some people that are out there now figuring out what they think actual cost is. Well, do you want to keep up with the two extremes, or do you want to come up with something that's proven to work in other states and adopt it so you don't have all that time, energy, and to be quite honest, wasted money sitting there trying to resolve a dispute that could be easily handled by a medical fee schedule?

SENATOR OSTEN: Thank you very much, Bonnie. Any questions, anybody?

REP. TERCYAK: Thank you very much, Bonnie. You mentioned that physicians and other providers have a Medicare-based fee schedule for the past 20 years. Do you know what the multiplier is?

BONNIE STUART: I want to clarify. We've had a fee schedule.

REP. TERCYAK: Okay.

BONNIE STUART: Initially it wasn't based on Medicare, but then it was determined that was the best route; and it converted to Medicare. In terms of the multiplier, the multiplier depends on the -- we don't have like classifications when it comes to providers, but it depends on who the provider is, and I'll give you a good reason why.

Orthopods get paid more than anybody else. So you take Medicare, and they've got a higher multiplier than, for example, an MRI facility would. The reason for that is there is a little bit of additional work when it comes to Comp claims for some providers, but there's not in others.

So if you're going to see your doctor, your orthopod, who is going to have to write up the reports to say what your restricted capacity is, or when they expect you to return to work. They'll have to do that, but your MRI guy doesn't. He sees you. You come and go. So he's going to get paid a lower percentage than you orthopod would.

So it's not every year that there's an adjustment, but the Comp Commission goes

through and, you know, takes a look at everything and decides what they're going to do and how best to do it, really in large part, based on recommendations for companies that do this, and, second, their own experience at the Connecticut's Workers' Compensation system, based on, you know, how often orthopods get called in versus how often -- I can't think of anybody other than orthopods -- MRI people. I'm not sure what we call them.

SENATOR OSTEN: Thank you, Bonnie. Anybody else have any questions? Thank you very much.

BONNIE STUART: Thank you.

SENATOR OSTEN: We really appreciate it.

BONNIE STUART: You're welcome.

SENATOR OSTEN: Thanks for the charts.

Andy Markowski. No? Nope; 1, 2, 3, gone. And Abel Sanchez, followed by Megan Fountain, followed by Evelyn Nunez.

ABEL SANCHEZ: (Through interpreter) Good evening. My name is Abel Sanchez. I live in New Haven, Connecticut. I've been living in New Haven for 14 years.

I'm here supporting the law 5071, and the reason for my support is many companies steal from us. In 2006, a man took me to work for his company. In the night I worked shoveling snow, and he was going to pay me \$130. But the next day he only gave -- or at dawn he only gave me \$80, and he said, "Later I'll pay you." I left unsatisfied, and I went home. And later I found out that he owed money to a lot of people. Just to one person he owed \$500;

SB32

**JOINT
STANDING
COMMITTEE
HEARINGS**

**LABOR AND
PUBLIC
EMPLOYEES
PART 2
551 – 1047**

2014

56



CONNECTICUT

TESTIMONY OF
NATIONAL FEDERATION OF INDEPENDENT BUSINESS (NFIB)
BY

ANDY MARKOWSKI, CONNECTICUT STATE DIRECTOR

REGARDING

SB-56, AAC SEVERE MENTAL OR EMOTIONAL IMPAIRMENT AND WORKERS'
COMPENSATION COVERAGE;SB-61, AAC WORKERS' COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES;HB-5065, AAC UNEMPLOYMENT COMPENSATION;

BEFORE THE

LABOR & PUBLIC EMPLOYEES COMMITTEE

FEBRUARY 18, 2014

A non-profit, non-partisan organization founded in 1943, NFIB is Connecticut's and the nation's leading small-business association. In Connecticut, NFIB represents thousands of members and their employees. NFIB membership is scattered across the state and ranges from sophisticated high technology enterprises to "Main Street" small businesses to single-person "Mom & Pop" shops that operate in traditional ways. NFIB's mission is "To promote and protect the right of its members to own, operate, and grow their businesses." On behalf of those small- and independent-job-providers in Connecticut, I offer the following comments:

NFIB/Connecticut has significant concerns with SB-56. While NFIB understands the genesis behind this legislation, we are concerned about the unintended consequences that may result from the codifications of the conditions and circumstances as contemplated in the raised bill. In addition to ambiguities contained in the legislation, NFIB is concerned about the uncertainties that will result from this legislation, including legal questions, the potential for challenged claims, and the impact of the legislation on the rates of the overall workers' compensation system in Connecticut.

NFIB/Connecticut supports the intent behind SB-61. Connecticut's small businesses are already burdened with the high costs associated with workers' compensation insurance, in addition to rising unemployment costs, and high taxes. Medical costs are obviously a major driver of workers' compensation costs to small employers, and employers and carriers need a level of predictability in their dealings with medical providers, specifically hospital facilities, over charges. We believe that this legislation helps accomplish that goal. Further adding to employers' workers' compensation costs makes it difficult for small businesses to focus on job retention and growth.

61

BRISTOL

HOSPITAL

everyday extraordinary

**TESTIMONY OF
GEORGE EIGHMY, CPA, FHFMA
VICE PRESIDENT OF FINANCE AND CHIEF FINANCIAL OFFICER,
BRISTOL HOSPITAL AND HEALTH GROUP, INC.
BEFORE THE
LABOR AND PUBLIC EMPLOYEES COMMITTEE
Tuesday, February 18, 2014
SB 61, An Act Concerning Workers' Compensation and Liability
For Hospital Services**

SB 61 should be rejected for several reasons.

First, if passed, SB 61 would interfere with the orderly resolution of disputes currently pending before the Connecticut Supreme Court. At issue in the pending disputes is the refusal of a small number of workers' compensation insurers to negotiate rates and methods of reimbursement with hospitals as required by Connecticut General Statutes Section 19a-166; this minority of insurers prefer a system by which they decide, claim by claim, what they are going to pay, and hospitals are left to appeal, claim by claim, if they don't agree.

Second, the amount proposed as payment for hospital services prior to adoption of a fee schedule is wholly inadequate. Operating expense plus the cost of uncompensated care of \$3.4 million (3%) would not provide enough to cover all incurred costs - it would exclude: the annual \$3 million hospital tax (2.9%), the annual \$7 million Medicaid payment shortfall (5.5%), and the annual \$7 million Medicare shortfall (5.5%).

Any solution to the current situation has to recognize the need for a hospital to be compensated sufficiently to cover all of these costs. We are ready and willing to work on solutions and look forward to the opportunity to do so. Bristol Hospital is willing to negotiate with workers compensation carriers to establish a fee schedule or predetermined rate for services provided. However, request a transition period go from the current effective rates to levels on par with other commercial plans.

We appreciate your consideration of our position.

TESTIMONY OF
CHRIS HARTLEY
SENIOR VICE PRESIDENT
SAINT FRANCIS HOSPITAL & MEDICAL CENTER
BEFORE THE
LABOR AND PUBLIC EMPLOYEES COMMITTEE
Tuesday, February 18, 2014

SB 61, An Act Concerning Workers' Compensation and Liability for Hospital Services

Saint Francis Hospital & Medical Center appreciates the opportunity to submit testimony concerning SB 61, An Act Concerning Workers' Compensation And Liability for Hospital Services. Saint Francis opposes the bill as written.

Saint Francis Hospital & Medical Center has been one of the major health care resources in the state of Connecticut for nearly 117 years. As a major acute care hospital and teaching affiliate of the University of Connecticut School of Medicine, Saint Francis provides services to all who come through its doors 24 hours a day, seven days a week, regardless of ability to pay. In 2012 alone, Saint Francis provided over \$74 million dollars of community benefit.

Saint Francis is home to a variety of centers of health care excellence including The Hoffman Heart and Vascular Institute of Connecticut, The Connecticut Joint Replacement Institute and The Saint Francis/Mount Sinai Regional Cancer Center among others. Saint Francis also operates a Level II Trauma Center and a Level III Neonatal Intensive Care Unit. In FY13, Saint Francis served 32,366 inpatients, provided 81,062 emergency department visits and offer nearly 100,000 outpatient visits.

We, as are the other hospitals in this state, committed to initiatives that improve access to safe, high-quality care. Ensuring that safety is reinforced as the most important focus is the foundation on which all hospital work is done. Connecticut hospitals launched the first statewide initiative in the country to become high reliability organizations, creating cultures with a relentless focus on safety and have as a goal the elimination of all preventable harm. This program is saving lives

Providing culturally competent care, eliminating disparities, and achieving health equity are also priorities of Connecticut hospitals. The CHA Diversity Collaborative, a first-in-the-nation program to achieve these goals, has been recognized as a national model. The Curtis D Robinson Men's Health Institute is another nationally recognized effort to provide to diverse, underserved populations in Connecticut and this program operates in conjunction with Saint Francis Hospital and Medical Center.

The benefits of hospitals extend well beyond their walls, as they strive to improve the health of our communities and play a vital role in our economy. Saint Francis provides full-time, well-paying jobs to more than 3,700 people who make sure we have access to the very best care whenever we need it. These hospital jobs in turn create an additional 3,700 jobs in our community. In total, Saint Francis generates 7,400 jobs in our communities and contributes more than \$1.3 billion to the state and its local economies annually.

SB 61 as proposed would make three significant changes to workers' compensation and liability for hospital services. First, for hospital services rendered prior to July 1, 2016, it would make a change from what is currently required under Connecticut General Statutes Section 19a-166 (i.e. rates and fees negotiated between the payer and the hospital to a set of costs determined by the Commissioner) to an amount equal to the operating expense plus an amount for uncompensated care. Second, it would limit the time to identify disputes to one year from the date of payment to a hospital or one year from when the employer notifies the hospital of a dispute. Third, it requires the chairman of the Workers' Compensation Commission to establish a fee schedule for hospital services

The need for this bill seems to be based on a flawed assumption that hospitals do not negotiate with insurers over the payment levels for Workers' Compensation claims. Nothing could be further from the truth. At Saint Francis to date we have negotiated payment for workers' compensation claims with 66 insurers.

SB 61 should be rejected for several reasons.

First, if passed, SB 61 would interfere with the orderly resolution of disputes currently pending before the Connecticut Supreme Court. At issue in the pending disputes is the refusal of a small number of workers' compensation insurers to negotiate rates and methods of reimbursement with hospitals as required by Connecticut General Statutes Section 19a-166; this minority of insurers prefers a system by which they decide, claim by claim, what they are going to pay, and hospitals are left to appeal, claim by claim, if they don't agree.

Second, the amount proposed as payment for hospital services prior to adoption of a fee schedule is wholly inadequate. Operating expense plus the cost of uncompensated care would not provide enough to cover all incurred costs – it would exclude the annual \$235 million hospital tax, which adds seven percent to the cost of employer-sponsored private and workers' compensation insurance; the annual \$710 million Medicaid payment shortfall, which adds another 20 percent to the cost of employer-sponsored health insurance and workers' compensation; and the annual \$364 million Medicare shortfall, which adds another 10 percent to the cost of employer-sponsored health insurance and workers' compensation.

Any solution to the current situation has to recognize the need for a hospital to be compensated sufficiently to cover all of these costs. If hospitals do not receive enough revenue to cover these costs then the services available to Connecticut residents would suffer.

We appreciate your consideration of our position



**TESTIMONY OF
STEPHEN FRAYNE
SENIOR VICE PRESIDENT, HEALTH POLICY
CONNECTICUT HOSPITAL ASSOCIATION
BEFORE THE
LABOR AND PUBLIC EMPLOYEES COMMITTEE
Tuesday, February 18, 2014**

**SB 61, An Act Concerning Workers' Compensation and Liability
For Hospital Services**

The Connecticut Hospital Association (CHA) appreciates the opportunity to submit testimony concerning **SB 61, An Act Concerning Workers' Compensation And Liability For Hospital Services**. CHA opposes the bill as written.

Before outlining our concerns, it's important to detail the critical role hospitals play in the health and quality of life of our communities. All of our lives have, in some way, been touched by a hospital: through the birth of a child, a life saved by prompt action in an emergency room, or the compassionate end-of-life care for someone we love. Or perhaps our son, daughter, husband, wife, or friend works for, or is a volunteer at, a Connecticut hospital.

Hospitals treat everyone who comes through their doors 24 hours a day, regardless of ability to pay. In 2012, Connecticut hospitals provided nearly \$225 million in free services for those who could not afford to pay.

Connecticut hospitals are committed to initiatives that improve access to safe, high-quality care. They are ensuring that safety is reinforced as the most important focus—the foundation on which all hospital work is done. Connecticut hospitals launched the first statewide initiative in the country to become high reliability organizations, creating cultures with a relentless focus on safety and a goal to eliminate all preventable harm. This program is saving lives.

Providing culturally competent care, eliminating disparities, and achieving health equity are also priorities of Connecticut hospitals. The CHA Diversity Collaborative, a first-in-the-nation program to achieve these goals, has been recognized as a national model.

The benefits of hospitals extend well beyond their walls, as they strive to improve the health of our communities and play a vital role in our economy. Connecticut hospitals provide great jobs to more than 55,000 people who make sure we have access to the very best care whenever we need it. Every hospital job creates another job in our community. In total, Connecticut hospitals generate 111,000 jobs in our communities and contribute more than \$20 billion to the state and local economies.

SB 61 as proposed would make three significant changes to workers' compensation and liability for hospital services. First, for hospital services rendered prior to July 1, 2016, it would make a change from what is currently required under Connecticut General Statutes Section 19a-166 (i.e., rates and fees negotiated between the payer and the hospital to a set of costs determined by the Commissioner) to an amount equal to the operating expense plus an amount for uncompensated care. Second, it would limit the time to identify disputes to one year from the date of payment to a hospital or one year from when the employer notifies the hospital of a dispute. Third, it requires the chairman of the Workers' Compensation Commission to establish a fee schedule for hospital services.

SB 61 should be rejected for several reasons.

First, if passed, SB 61 would interfere with the orderly resolution of disputes currently pending before the Connecticut Supreme Court. At issue in the pending disputes is the refusal of a small number of workers' compensation insurers to negotiate rates and methods of reimbursement with hospitals as required by Connecticut General Statutes Section 19a-166; this minority of insurers prefer a system by which they decide, claim by claim, what they are going to pay, and hospitals are left to appeal, claim by claim, if they don't agree.

Second, the amount proposed as payment for hospital services prior to adoption of a fee schedule is wholly inadequate. Operating expense plus the cost of uncompensated care would not provide enough to cover all incurred costs – it would exclude: the annual \$235 million hospital tax, which adds seven percent to the cost of employer-sponsored private and workers' compensation insurance; the annual \$710 million Medicaid payment shortfall, which adds another 20 percent to the cost of employer-sponsored health insurance and workers' compensation; and the annual \$364 million Medicare shortfall, which adds another 10 percent to the cost of employer-sponsored health insurance and workers' compensation.

Any solution to the current situation has to recognize the need for a hospital to be compensated sufficiently to cover all of these costs. We are ready and willing to work on solutions and look forward to the opportunity to do so.

We appreciate your consideration of our position.

Thank you for your consideration of our position. For additional information, contact CHA Government Relations at (203) 294-7310.

Bob Beltrami

STATEMENT
INSURANCE ASSOCIATION OF CONNECTICUT

Labor and Public Employees Committee

February 18, 2014

SB 61, An Act Concerning Workers' Compensation And
Liability For Hospital Services

The Insurance Association of Connecticut (IAC) supports SB 61, An Act Concerning Workers' Compensation And Liability For Hospital Services. SB 61 is intended to address an extremely important issue created by a recent Workers' Compensation Commission decision (Gray v. Electric Boat), which is currently under appeal.

The decision in Gray v. Electric Boat removes any incentive for hospitals to negotiate fairly with payors for services rendered under the Workers' Compensation Act, as hospitals are now permitted to simply charge their published or billed amounts. This scenario will encourage counterproductive cost-shifting by hospitals to workers' compensation cases. Currently, a hospital's published charges for a service may be several times higher than the rates the same hospital charges for the same services pursuant to a negotiated agreement. Numerous recent press reports have highlighted the lack of any connection between a hospital's published charges and the cost of providing the services.

Most states have established a fee schedule for hospital services provided to Workers' Compensation claimants. IAC believes that a fee schedule based on a multiplier of Medicare reimbursement for services has proven to be the most effective and fair basis for establishing such a schedule.

IAC would also suggest that SB 61 be amended so that the fee schedule is applicable to services provided at ambulatory surgical centers, in addition to inpatient and outpatient hospital services. Experience in other states has shown that, in order to be truly effective,

fee schedules need to apply to all such venues for the provision of hospital and surgical services.

IAC is reviewing the current wording in SB 61 concerning the determination of payment for services rendered between July 1, 2014, and the date the fee schedule is implemented. We would like to work with the Labor and Public Employees Committee to ensure that the language is sufficiently clear in order to facilitate consistent and proper calculations during the interim period.

For the first time in Connecticut, in 2012 medical payments rose to a level equal to 50 percent of total workers' compensation benefit costs, as medical costs continue to rise at a rapid rate. Hospital payments account for 33 percent of total medical payments for workers' compensation claims, meaning approximately one-sixth of all workers' compensation benefit costs are attributable to hospital services.

The potential for the decision in *Gray v. Electric Boat* to result in a marked increase in workers' compensation costs in the state is clear. Those unnecessarily increased costs will be forced on both public and private sector employers across the state, having a direct negative effect on the state's economy. If published charges are permitted to be the basis of hospital reimbursement, workers' compensation insurance premiums will have to increase to reflect the level of those charges.

A fee schedule will provide the necessary mechanism to set reimbursement rates for hospital and ambulatory surgical center services under the Workers' Compensation Act that are proper and fair to payors and providers. IAC urges adoption of SB 61.

TESTIMONY OF
JOAN OROWSON
Director, Patient Business Services
The William W. Backus Hospital
before the
LABOR AND PUBLIC EMPLOYEES COMMITTEE
Tuesday, February 18, 2014

Re: Opposition to Raised Bill No. 61 - "AN ACT CONCERNING WORKERS'
COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES"

Good afternoon, Senators, Representatives and Members of the Labor and Public Employees Committee.

Thank you for this opportunity to express serious concerns about Raised Bill No. 61, and urge you to reject it. I am Joan Orowson, Director of Patient Business Services at The William W. Backus Hospital in Norwich. Our hospital is one of the parties involved in an important Workers' Compensation Commission case which was decided on September 17, 2012, by a Workers' Compensation Commissioner.

That decision rejected claims settlement practices then used by Fairpay Solutions, Inc., in Connecticut and ordered Fairpay and its clients instead to follow longstanding requirements governing hospital reimbursement. Those requirements, set forth in Section 19a-646 of the Connecticut General Statutes, state that hospitals are to be reimbursed based on freely negotiated rate agreements or on published charges.

This case has been appealed to the Connecticut Supreme Court. All briefs have been filed and the matter will be heard this term. My colleagues and I are deeply concerned that you are reviewing a proposal to change the legislation regarding payment to hospitals for services provided to patients covered by Workers' Compensation at the same time this is under the appropriate review. Bluntly, it looks like an end-run around the established review process, which contains legally accepted appropriate judicial appeals. You should let the appeal process run its course.

Backus Hospital has always operated under a system under which we negotiate contracts with insurance companies or preferred provider organizations in all areas including workers' compensation.

This system changed when Fairpay Solutions came to Connecticut in 2007. I would like to focus my testimony to actual dealings and difficulties my hospital has experienced in attempting to obtain adequate compensation from Fairpay Solutions for health services provided to Fairpay's clients.

Backus Hospital has pursued appropriate reimbursement of several accounts that were repriced by Fairpay Solutions. In many instances this has entailed months of discussions with Fairpay, with every claim of underpayment being disputed, and ultimately requiring the assistance of attorneys to help us obtain appropriate reimbursement for the services we provided.

The rates reimbursed were often less than those paid by Government payers. Backus has logs detailing serious underpayments of more than 300 accounts.

We appreciate your careful consideration of this matter, and respectfully request that the Labor and Public Employees Committee and the General Assembly Reject Raised Bill No. 61.

Respectfully submitted,

Joan Orowson
Director, Patient Business Services
The William W. Backus Hospital
326 Washington Street
Norwich, Connecticut 06360



WATERBURY HOSPITAL

TESTIMONY OF EDWARD ROMERO, CHIEF FINANCIAL OFFICER, WATERBURY HOSPITAL BEFORE THE LABOR & PUBLIC EMPLOYEES COMMITTEE

FEBRUARY 18, 2014

SB-61: AN ACT CONCERNING WORKERS' COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES

Good afternoon. My name is Edward Romero, Chief Financial Officer of Waterbury Hospital. I am here today to testify in opposition to SB-61: AN ACT CONCERNING WORKERS' COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES.

This proposed legislation does not assist injured workers or improve the business climate in Connecticut, it merely further destabilizes already fragile hospital finances—both for today and in the future—by not paying the full cost for care delivered to injured workers.

This bill will enable a Texas-based health care repricing company, Fairpay Solutions, to obtain a legislative bailout of their insurance clients' liability under existing Connecticut laws that call for fair reimbursement to hospitals for the care provided to injured workers through Workers' Compensation.

There are two important points to make about Fairpay's practice of inappropriately discounting hospital bills. The first is that the initial bills submitted by hospitals for care delivered to injured workers are based on hospitals' published charges—established under Section 19a-646 of the Connecticut General Statutes, which requires that hospitals be reimbursed based on freely negotiated rate agreements or published charges. The second is that Fairpay Solutions' practice of discounting bills was overturned by a Workers' Compensation Commissioner, and his decision is now before the Connecticut Supreme Court. The final brief was filed on February 6 and the case will be argued in a few months and decided thereafter.

The Commissioner ruled that the carriers and employers were responsible for the full charges submitted by two Connecticut hospitals and ordered the carrier and employers to pay the full balance owed in keeping with current law. Rather than abide by this ruling and move forward under existing statute, Fairpay is seeking legislative solutions to defy the Commission's ruling and overturn the long-standing hospital reimbursement requirement under current law.

What does this mean for Waterbury Hospital? Our hospital treats a higher percentage of Workers' Compensation injuries because of the size and scale of our organization. Fairpay Solutions has reviewed and is handling hundreds of Workers' Compensation cases for bills submitted by the Hospital. And, they have substantially underpaid us for services already rendered, resulting in millions of dollars in losses. That's what is at stake today for Waterbury Hospital. I am deeply concerned about the future if this bill is passed and enacted.

This issue, however, goes beyond just the dollars and cents for Waterbury and other Connecticut hospitals—it strikes at the heart of fairness in payment for the high quality services we deliver to patients; in this case, injured workers.

While “fairness” can be construed as a subjective term, there are a number of specific reasons that this bill should be rejected. It:

- **Interferes with a pending legal case without justification.** As referenced earlier, this matter is now before the Connecticut Supreme Court. There has been no justification provided by Fairpay as to why the state legislature should interfere with the normal process of adjudication other than that the Commissioner has ruled against its position.
- **Overburdens the Workers’ Compensation Commission.** Since 1994, the vast majority of all Workers’ Compensation hospital bills have been paid pursuant to negotiated agreements between hospitals, insurance companies and managed care organizations. The substance of the proposed bill is directly contrary to the legislature’s general movement to deregulate hospital rates, which began in the mid-1990s. For twenty years, the state has encouraged employers to emulate the negotiation practices of health insurance companies. That is, to negotiate contracts for discounts from hospital charges before services are provided, or to set up managed care plans which function on the basis of negotiated rates. Instead, this bill would require the Workers’ Compensation Commission to become a ratemaking agency. The bill provides no guidance for the Commissioners. There is no basis to believe that the Commission has the desire, the staff, or the expertise to perform the highly complex task of determining what a reasonable rate of reimbursement is for each Connecticut hospital in each case to treat an injured worker.
- **Does not propose adequate payment for hospital services prior to the adoption of a fee schedule.** The proposed payment, operating expense plus the cost of uncompensated care, would not provide enough to cover all incurred costs – it would exclude the cost of the hospital tax, which adds seven percent to the cost of employer-sponsored private and workers’ compensation insurance; the annual Medicaid payment shortfall, which adds another 20 percent to the cost of employer-sponsored health insurance and workers’ compensation; and the annual Medicare shortfall, which adds another 10 percent to the cost of employer-sponsored health insurance and workers’ compensation. This would further exacerbate the fragile financial condition and sustainability of Waterbury Hospital.
- **Sets up a dual hospital payment system under which the liability of employers and insurers to compensate hospitals for care provided to injured or ill workers differs from the general system used to determine rates of reimbursement for hospitals for treatment of everyone else.** This is inconsistent with the Supreme Court’s interpretation of the “actual cost” language in Section 31-294d(d) in *Burge v. Stonington*, 219 Conn. 581 (1991).

And, finally, **Fairpay’s attempts to underpay hospitals are arbitrary and should be challenged.** If carriers and providers negotiate rates, or employers set up approved managed care plans, there is no need for individual review of bills by repricing company such as Fairpay Solutions. The arbitrary claims’ settlement methods of Fairpay should be examined by the Labor and Public Employees Committee or the Insurance Committee.

For these reasons, Waterbury Hospital respectfully recommends that the Committee reject this legislation.

Thank you for your consideration.

Testimony of Stuart E. Rosenberg
President and Chief Executive Officer
Johnson Memorial Hospital before the
Labor and Public Employees Committee
Tuesday, February 18, 2014
Page 2

67

SB 61 An Act Concerning Workers' Compensation and Liability For Hospital Services

Johnson Memorial Hospital on buildings and equipment total \$817,000. This expenditure generates an additional \$882,000 in local economic activity each year. Dollars earned by JMH employees and spent on groceries, clothing, mortgage payments, rent, etc., generate approximately \$36,317,000 in economic activity and create an additional 470 jobs for the local economy.

SB 61 as proposed would make three significant changes to workers' compensation and liability for hospital services. First, for hospital services rendered prior to July 1, 2016, it would make a change from what is currently required under Connecticut General Statutes Section 19a-166 (i.e., rates and fees negotiated between the payer and the hospital to a set of costs determined by the Commissioner) to an amount equal to the operating expense plus an amount for uncompensated care. Second, it would limit the time to identify disputes to one year from the date of payment to a hospital or one year from when the employer notifies the hospital of a dispute. Third, it requires the chairman of the Workers' Compensation Commission to establish a fee schedule for hospital services.

SB 61 should be rejected for several reasons.

First, if passed, SB 61 would interfere with the orderly resolution of disputes currently pending before the Connecticut Supreme Court. At issue in the pending disputes is the refusal of a small number of workers' compensation insurers to negotiate rates and methods of reimbursement with hospitals as required by Connecticut General Statutes Section 19a-166; this minority of insurers prefer a system by which they decide, claim by claim, what they are going to pay, and hospitals are left to appeal, claim by claim, if they don't agree.

Second, the amount proposed as payment for hospital services prior to adoption of a fee schedule is wholly inadequate. Operating expense plus the cost of uncompensated care would not provide enough to cover all incurred costs - it would exclude: the annual \$235 million hospital tax, which adds seven percent to the cost of employer-sponsored private and workers' compensation insurance; the annual \$710 million Medicaid payment shortfall, which adds another 20 percent to the cost of employer-sponsored health insurance and workers' compensation; and the annual \$364 million Medicare shortfall, which adds another 10 percent to the cost of employer sponsored health insurance and workers' compensation. In addition, these cuts will add to the already projected shortfall to small hospitals as a result of other legislative initiatives in FY2015-2016.

Any solution to the current situation has to recognize the need for a hospital to be compensated sufficiently to cover all of these costs. We are ready and willing to work on solutions and look forward to the opportunity to do so.

We appreciate and thank you for your consideration of our position. For additional information, contact Johnson Memorial Hospital Public Relations at (860) 763-8062.

Sincerely,



Stuart E. Rosenberg
President/CEO

Johnson Memorial Hospital

TESTIMONY OF
STUART E. ROSENBERG
PRESIDENT AND CHIEF EXECUTIVE OFFICER
JOHNSON MEMORIAL HOSPITAL
BEFORE THE
LABOR AND PUBLIC EMPLOYEES COMMITTEE
Tuesday, February 18, 2014

**SB 61, An Act Concerning Workers' Compensation and Liability
For Hospital Services**

Johnson Memorial Hospital (JMH) appreciates the opportunity to submit testimony concerning SB 61, An Act concerning Workers' Compensation And Liability For Hospital Services. Johnson Memorial Hospital opposes the bill as written.

Before outlining our concerns, it's important to detail the critical role hospitals play in the health and quality of life of our communities. All of our lives have, in some way, been touched by a hospital: through the birth of a child, a life saved by prompt action in an emergency room, or the compassionate end-of-life care for someone we love. Or perhaps our son, daughter, husband, wife, or friend works for, or is a volunteer at, a Connecticut hospital.

Hospitals treat everyone who comes through their doors 24 hours a day, regardless of ability to pay. In 2012, Connecticut hospitals provided nearly \$225 million in free services for those who could not afford to pay. In addition, we provide access to program and services to address needs identified during the Community Health Needs Assessment process.

Connecticut hospitals are committed to initiatives that improve access to safe, high-quality care. They are ensuring that safety is reinforced as the most important focus- the foundation on which all hospital work is done. Connecticut hospitals launched the first statewide initiative in the country to become high reliability organizations, creating cultures with a relentless focus on safety and a goal to eliminate all preventable harm. This program is saving lives. JMH is actively taking part in the high-reliability initiative to ensure safe quality care is provided to all those who enter our doors.

Providing culturally competent care, eliminating disparities, and achieving health equity are also priorities of Connecticut hospitals. The CHA Diversity Collaborative, for which Johnson is a part, is a first-in-the-nation program to achieve these goals and has been recognized as a national model.

Generations of families have come to rely on Johnson Memorial Hospital. In addition to our caregiving role, the benefits of hospitals extend well beyond their walls, as they strive to improve the health of our communities and play a vital role in our economy. Johnson Memorial Hospital supports jobs for 1100 clinical and non-clinical employees who make sure the community has access to the very best care whenever it is needed. In addition, JMH's payroll expenditures serve as an important economic stimulus, creating and supporting jobs throughout the local and state economies.

Each year JMH spends about \$25,417,000 on goods and services it needs to provide healthcare - e.g., medical supplies, electricity for its buildings, and food for patients. Funds spent to buy goods and services flow from the hospital to businesses and then ripple throughout the economy. These dollars generate a total of approximately \$27,428,000 for the local economy. Funds spent by

61



150 Trumbull Street, 2nd Floor
Hartford, CT 06103
p) 860.522 4345 f) 860 522 1027
www.cttriallawyers.org

Raised Bill 61
Public Hearing: 2-18-14

TO: MEMBERS OF THE LABOR AND PUBLIC EMPLOYEES COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
WORKERS' COMPENSATION SECTION
DATE: FEBRUARY 18, 2014
RE: COMMENT ON RAISED BILL 61 – AN ACT CONCERNING WORKERS'
COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES.

The CTLA Workers' Compensation Section has reviewed this piece of legislation and recommends the following amendment:

In line 56, prior to "liability", insert "amount of the employer's".

That sentence would thus read:

All disputes concerning amount of the employer's liability for hospital services in workers' compensation cases shall be filed not later than one year from the date that the employer remits the payment or notifies the hospital of such employer's dispute and shall be settled by the commissioner in accordance with this chapter.

The proposed changes to the statute necessitate this change because it should maintain the same meaning as the other instances of the term "liability" in the statute, at existing lines 36 and 46, and at new lines 43 and 45. This will ensure the same liability is being referenced.

We feel this would protect employees because without the clarification the new inclusion of a one year time limit may create confusion and may be seen as to create a liability for the employee. This will make it clear that the liability is pecuniary and not in reference to the reasonable and necessary treatment given to the employee.

WE URGE YOU AMEND THE BILL AS OUTLINED ABOVE. Thank you.



Testimony
Betsy Gara
Executive Director
Connecticut Council of Small Towns (COST)
Before the Labor Committee
February 18, 2014

**RE: SB-61, AN ACT CONCERNING WORKERS' COMPENSATION AND LIABILITY
FOR HOSPITAL SERVICES**

The Connecticut Council of Small Towns (COST) supports the intent of SB-61 to address concerns regarding a recent Workers Compensation Commission decision which held that workers' compensation insurers and self-insured employers are required to pay the hospital's full published charges for medical services provided to claimants rather than the actual costs as authorized under the Workers' Compensation Act.

COST appreciates that hospitals are facing very difficult economic circumstances and recognizes that they are a vital part of the health and welfare of our communities. However, the Schoolcraft decision, which erroneously relies on statutes outside the Workers' Compensation Act, will increase medical payouts in workers' compensation cases, driving up overall workers' compensation costs for employers, including municipal employers.

The decision held that "absent a negotiated and formalized agreement on a discount rate", insurers and self-insured employers are responsible for the full amount billed. This decision ignores well-settled law under the Workers' Compensation Act which expressly provides that employers are only required to reimburse the actual costs of rendering services to the claimant.

We are encouraged that SB-61 is a good start in attempting to address these concerns and urge lawmakers to work together to craft language that establishes a process for determining reasonable reimbursement rates for hospital costs.

We urge your support for this bill.

DEPARTMENT OF
EMPLOYEE SERVICES
RISK MANAGEMENT

61

February 18, 2014

Re: **S.B. No. 61 (RAISED) AN ACT CONCERNING WORKERS'
COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES**

Dear Members of the Labor and Public Employees Committee:

The Town of West Hartford asks for the Labor Committee's support of SB 61, An Act Concerning Workers' Compensation and Liability for Hospital Services.

West Hartford, like most towns in Connecticut, has ever tightening budget constraints and the necessity to provide and ensure services to residents as a means of maintaining our high quality of life in our community.

The bill before us today, SB 61 offers every town in CT an opportunity for some relief from the escalating costs associated with workers' compensation medical claims. The unintended consequence of the 2012 Schoolcraft's case jeopardizes the budget of all 169 towns in municipalities in CT. That decision still allows hospitals to freely bill for workers' compensation claims without any billing guidelines. In essence, that decision said that "actual costs" no longer applies and leaves the matter of paying for workers' compensation medical costs unleashed.

That is why we encourage the passage of SB 61. As proposed it would establish a hospital service fee schedule that could infuse some equitable and reasonable relief to the rising workers' compensation medical costs. A pre-determined hospital service fee for workers' compensation claims is not a new idea. Forty-one states have such a system. This means that CT is just one of nine states without an established system that could bring economic resolution to both municipalities and hospitals in CT.

A quick example illustrates why a hospital service fee is necessary. Last year, a local hospital billed a town in Connecticut \$44K for rotator cuff surgery. Under that town's health insurance they paid \$4K, under the same town's workers' compensation program they paid \$14K. Shockingly, without legislation, going forward the hospital may demand \$44K. If legislation is not adopted this legislative session, all employers, including governmental entities, will be in a similar situation.



TOWN OF WEST HARTFORD

TOWN OF WEST HARTFORD
50 SOUTH MAIN STREET
WEST HARTFORD, CONNECTICUT 06107-2485
(860) 561-7485 FAX. (860) 561-7499
<http://www.westhartford.org>

An Equal Opportunity/Affirmative Action Employer

While preparing the FY2014-2015 Risk Management Fund Budget for the Town of West Hartford, I learned from our underwriter that the Town can expect an increase to our self-insured retention (currently \$500,000) in addition to paying a 15% rate increase in July when the excess workers' compensation policy renews. This is a direct result of the rising medical costs and undetermined fees for hospital services.

Please Support SB 61 to allow the state's Workers' Compensation Commission to establish an **equitable hospital service fee schedule**. Hospitals, cities, towns, and CT employers alike will be best served by this fiscally reasonable approach.

Please support SB 61 to help stop rising medical costs

Sincerely,

Susan M Donatelli

Susan M. Donatelli, ERM, ARM
Risk Manager



LABOR & PUBLIC EMPLOYEES COMMITTEE

February 18, 2014

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 92% of Connecticut's population. We appreciate the opportunity to testify on bills of interest to towns and cities.

Senate Bill 61 "An Act Concerning Workers' Compensation and Liability for Hospital Services"

CCM supports SB 61 as it would address concerns regarding self insured employers' ability to negotiate directly with hospitals regarding fees charged for care provided to workers' compensation patients by establishing a fee schedule.

There are concerns however, regarding the bill's proposal to place uncompensated care costs within the proposed fee schedule – and what the potential impact could be on the workers' compensation system. CCM therefore, urges the Committee to first obtain a detailed analysis before acting on this particular proposal.

Additionally, CCM urges the Committee to ensure SB 61 would uphold previously negotiated agreements – and that prior negotiations would not be subject to a retrospective fee.

CCM supports SB 61 as a well-intended proposal, and is eager to work with members of the Committee and key stakeholders toward a favorable outcome.

CCM urges the Committee to favorably report SB 61.

★ ★ ★ ★ ★

If you have any questions, please contact Robert Labanara, State Relations Manager of CCM, at rlabanara@ccm-ct.org.

Labor and Public Employees Committee
February 18, 2014

Testimony

Raised Bill # 61 - AN ACT CONCERNING WORKERS'
COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES

Good Afternoon Senator Osten, Representative Tercyak and members of the Labor and Public Employees Committee. I am Diane Ritucci, President & Chief Executive Officer, Workers' Compensation Trust, Wallingford, CT.

The Trust is an employer mutual association which for the past 33 years, provides workers' compensation insurance coverage to over 400 healthcare and human service organizations throughout the State. The vast majority of our members receive significant funding from the Departments of Children & Families, Mental Health & Addiction and Developmental Services. They have withstood multi-year budget cuts and reductions in funding for the past several years and yet continue to provide necessary services. All profit generated by us goes back to the members of the Trust. To date we have given out over \$23,000,000.

I myself have been in the workers' compensation business for over 33 years and I have never seen such havoc as we have today as it relates to the payment of hospital bills. All of us who work in this industry rely heavily upon the Bulletins issued by the State of Connecticut Workers' Compensation Commission as our "bible" to help us determine the appropriate handling of cases. These bulletins contain all the workers' compensation statutes and related statutes that are needed to adjudicate claims.

It is important to note that, Bulletin No. 34 issued in 1979 and Bulletin No. 50 issued in 2013, contain the exact same language as to the payment of hospitals. Section 31-294d(d) states that "the liability of the employer for hospital service shall be the amount it actually costs the hospital to render the service". Another important note is that between these two publishing dates, the workers' compensation system went through at least 3 major reforms—1991, 1993 and 1995. Every statute was reviewed and overhauled during those years and still that language survived. That was not an accident. There was a reason that that language held up for over 30 years and the reason is because that is what was intended. It was never intended that hospitals make profit on the backs of injured workers.

Our experience is that hospitals certainly understood the statute existed and accepted the payment accordingly. Our reconsideration request rate was almost negligible and was never because hospitals were questioning the payment based on cost, but rather that we were missing information and that information was now available.

All that has changed, as in March 2012, an attorney brought 4 cases before a single workers compensation commissioner in the Norwich district to challenge the "actual cost" language. And, that commissioner made a very bad decision that has sent employers in this state reeling ever since. Commissioner Schoolcraft's decision said that Section 31-294d(d) is no longer applicable and the employers must either negotiate lower rates with hospitals or they must pay published charges.

So, now what are hospitals doing? They are saying that due to the Schoolcraft decision, we will not negotiate with you; we want billed charges. Hospitals have never gotten billed charges from any payor

system. There are reasons why. The median cost mark up for hospitals is 143% from cost to billed charges. While we believe the Schoolcraft decision will one day be reversed upon appeal, we have real issues in the meantime. The Trust and self-insured employers do not have the negotiating power of large insurance carriers and they have relied on the plain language of the statute to pay a reasonable fee for hospital services. But, now that plain language has been rendered useless by the Schoolcraft decision and the Workers' Compensation Commission which has indicated they do not have enough information to determine what "actual costs" really means.

To put hospital billing practices as it relates to workers' compensation, in some sort of context, I share the following:

- 1) According to Health Strategy Associates, workers' compensation medical expenses account for less than one-fiftieth of total US health care costs, yet workers' compensation generates almost one-sixth of hospital profits.
- 2) The latest information from the Workers' Compensation Research Institute (WCRI) indicates that inpatient hospital payments were up 35% on average for the 5 years between 2005-2010, while the average payment per claim for hospital outpatient treatment/operating room /recovery room services increased by 62 percent.

From the insurance industry perspective:

- 1) A key metric of the workers' compensation industry is the combined ratio. This ratio measures the profitability of the industry. The calendar year combined loss ratio for CT in 2012 was 112. This ratio means that for every \$1 in premium collected, \$1.12 is paid out in losses. This is the 5th highest combined loss ratio in the nation. Investment income helps, but with investment yields the way they are today, the math doesn't work. Insurance companies are losing money and the only recourse is to raise premium and increase cost for employers.
- 2) NCCI has filed for workers' compensation rate increases for the past 5 calendar years in order to adequately fund for the loss projections. This is a direct hit for business all over our State.

From the payer perspective, these are actual examples of issues that we have encountered in the past 12 months.

- 1) A knee procedure was performed in a one-day surgery center at a large teaching hospital. The total bill for the use of the operating room and recovery room for this 5 hour stay was \$26,000. This amount does not include the surgeons fee or the anesthesiologist. Just the facility charge. If the bill was paid by the group health carrier, the hospital would have been paid \$3800 or 15% of billed charges. Because it was a workers' compensation claim, if paid according to the "actual cost" statute that is on the books, the payment would have been \$5900, a 55% increase over the group health payment. If paid under the Schoolcraft decision, billed charges, it would have been an additional \$20,000.
- 2) In a recent contested case before the Workers' Compensation Commission, the Trust learned that the cost of the hospital services for a back surgery already performed was \$100,319. The group health carrier had resolved these bills for \$8,000, while the claim was being contested. This is the amount of the lien against the workers' compensation claim. If the Trust accepts liability in this case we will be asked to reimburse the group health carrier the \$8,000 instead

of paying the billed amount of \$100,319. That is 1100% increase purely because workers' compensation is the payer—not that any service was performed differently.

- 3) A large hospital recently began “balance billing” patients for the difference between billed charges and appropriate reduced payments based on items included in the current fee schedule.
- 4) The same attorney firm that brought the issue before Schoolcraft now represents that there are at least 1800 claims from the same four hospitals that require additional payments as they were (in their opinion) erroneously paid based on the “actual cost” statute. A reservation of rights has been placed on each file. The WCC has indicated that hearings would have to be held on each and every case to determine the appropriate fee. Many of these claims go back several years and no issues were ever raised as to the appropriateness of payment by the hospitals. Claims have been closed and settled as there were no outstanding issues. WC policies were written and priced based on the loss experience of the company, which did not factor in “unknown and unpaid hospital bills”.

As an employer, a payor, and a citizen of this State, I can tell you that the current hospital billing environment is a huge problem. Raised Bill 61 has been proposed to fix this problem. The intent of the bill is to clarify a strong, objective way in which hospitals will be paid under the workers' compensation system in CT.

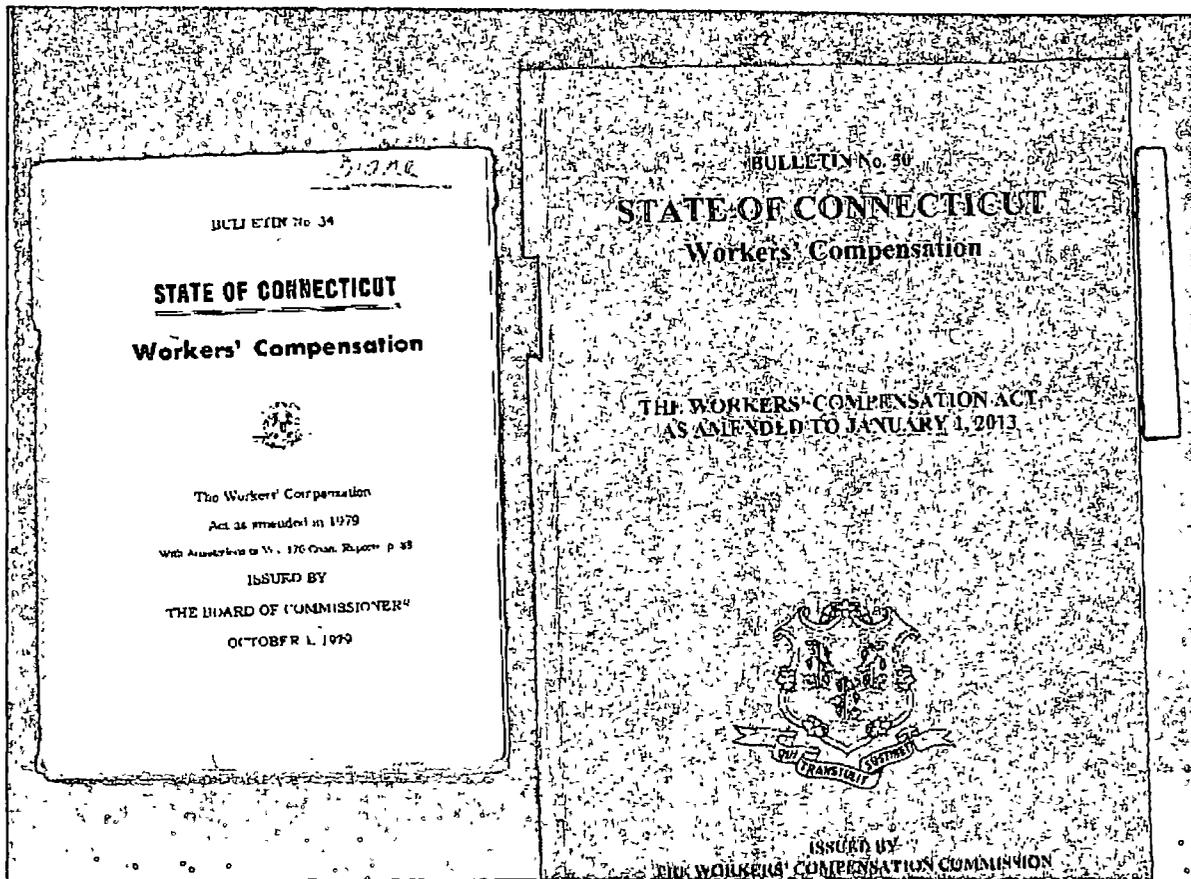
Few dispute that employers should adequately reimburse hospitals for their services. It is equally indisputable that under the current statute, employers are adequately reimbursing hospitals by paying more than their fair share. We fully understand that reimbursements from Medicaid and Medicare, and the general care of the uninsured, creates a financial burden for hospitals. But the already overburdened workers' compensation system should not be the source of this shortfall.

The rising cost of medical care has substantially impacted the cost of the workers' compensation system and is a key cost driver for increased premium. Even though we return all profits to our members, the members I serve cannot afford any more increase to their workers' compensation costs. These organizations have already experienced longstanding funding and budget cuts from the State and are still expected to do their best to provide much needed services to the mentally, physically, and emotionally challenged.

I implore you to help all employers by holding down hospital charges by passing this bill. Employers need a fair and equitable method of payment until a reasonable fee schedule can be accomplished. Any further deterioration in our payer system will have dramatic effect on the cost of Workers' compensation for all employers for many years to come.

I thank you for your time and attention. Should you need any further information, please feel free to contact me.

Diane M. Ritucci
President & Chief Executive Officer
203-678-0108
ritucci@wctrust.com.



BULLETIN No. 30

STATE OF CONNECTICUT
Workers' Compensation



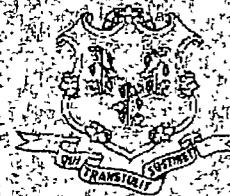
The Workers' Compensation
Act as amended in 1979
With Amendments to W. 170 Conn. Register p. 88

ISSUED BY
THE BOARD OF COMMISSIONERS
OCTOBER 1, 1979

BULLETIN No. 30

STATE OF CONNECTICUT
Workers' Compensation

THE WORKERS' COMPENSATION ACT
AS AMENDED TO JANUARY 1, 2013



ISSUED BY
THE WORKERS' COMPENSATION COMMISSION

STATEMENT
INSURANCE ASSOCIATION OF CONNECTICUT

Labor and Public Employees Committee

February 18, 2014

SB 61, An Act Concerning Workers' Compensation And
Liability For Hospital Services

The Insurance Association of Connecticut (IAC) supports SB 61, An Act Concerning Workers' Compensation And Liability For Hospital Services. SB 61 is intended to address an extremely important issue created by a recent Workers' Compensation Commission decision (Gray v. Electric Boat), which is currently under appeal.

The decision in Gray v. Electric Boat removes any incentive for hospitals to negotiate fairly with payors for services rendered under the Workers' Compensation Act, as hospitals are now permitted to simply charge their published or billed amounts. This scenario will encourage counterproductive cost-shifting by hospitals to workers' compensation cases. Currently, a hospital's published charges for a service may be several times higher than the rates the same hospital charges for the same services pursuant to a negotiated agreement. Numerous recent press reports have highlighted the lack of any connection between a hospital's published charges and the cost of providing the services.

Most states have established a fee schedule for hospital services provided to Workers' Compensation claimants. IAC believes that a fee schedule based on a multiplier of Medicare reimbursement for services has proven to be the most effective and fair basis for establishing such a schedule.

IAC would also suggest that SB 61 be amended so that the fee schedule is applicable to services provided at ambulatory surgical centers, in addition to inpatient and outpatient hospital services. Experience in other states has shown that, in order to be truly effective,

fee schedules need to apply to all such venues for the provision of hospital and surgical services.

IAC is reviewing the current wording in SB 61 concerning the determination of payment for services rendered between July 1, 2014, and the date the fee schedule is implemented. We would like to work with the Labor and Public Employees Committee to ensure that the language is sufficiently clear in order to facilitate consistent and proper calculations during the interim period.

For the first time in Connecticut, in 2012 medical payments rose to a level equal to 50 percent of total workers' compensation benefit costs, as medical costs continue to rise at a rapid rate. Hospital payments account for 33 percent of total medical payments for workers' compensation claims, meaning approximately one-sixth of all workers' compensation benefit costs are attributable to hospital services.

The potential for the decision in *Gray v. Electric Boat* to result in a marked increase in workers' compensation costs in the state is clear. Those unnecessarily increased costs will be forced on both public and private sector employers across the state, having a direct negative effect on the state's economy. If published charges are permitted to be the basis of hospital reimbursement, workers' compensation insurance premiums will have to increase to reflect the level of those charges.

A fee schedule will provide the necessary mechanism to set reimbursement rates for hospital and ambulatory surgical center services under the Workers' Compensation Act that are proper and fair to payors and providers. IAC urges adoption of SB 61.

61

10/2

TESTIMONY OF
JOAN OROWSON
Director, Patient Business Services
The William W. Backus Hospital
before the
LABOR AND PUBLIC EMPLOYEES COMMITTEE
Tuesday, February 18, 2014

Re. Opposition to Raised Bill No. 61 - "AN ACT CONCERNING WORKERS'
COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES"

Good afternoon, Senators, Representatives and Members of the Labor and Public Employees Committee.

Thank you for this opportunity to express serious concerns about Raised Bill No. 61, and urge you to reject it. I am Joan Orowson, Director of Patient Business Services at The William W. Backus Hospital in Norwich. Our hospital is one of the parties involved in an important Workers' Compensation Commission case which was decided on September 17, 2012, by a Workers' Compensation Commissioner.

That decision rejected claims settlement practices then used by Fairpay Solutions, Inc., in Connecticut and ordered Fairpay and its clients instead to follow longstanding requirements governing hospital reimbursement. Those requirements, set forth in Section 19a-646 of the Connecticut General Statutes, state that hospitals are to be reimbursed based on freely negotiated rate agreements or on published charges.

This case has been appealed to the Connecticut Supreme Court. All briefs have been filed and the matter will be heard this term. My colleagues and I are deeply concerned that you are reviewing a proposal to change the legislation regarding payment to hospitals for services provided to patients covered by Workers' Compensation at the same time this is under the appropriate review. Bluntly, it looks like an end-run around the established review process, which contains legally accepted appropriate judicial appeals. You should let the appeal process run its course.

Backus Hospital has always operated under a system under which we negotiate contracts with insurance companies or preferred provider organizations in all areas including workers' compensation

This system changed when Fairpay Solutions came to Connecticut in 2007. I would like to focus my testimony to actual dealings and difficulties my hospital has experienced in attempting to obtain adequate compensation from Fairpay Solutions for health services provided to Fairpay's clients.

Backus Hospital has pursued appropriate reimbursement of several accounts that were repriced by Fairpay Solutions. In many instances this has entailed months of discussions with Fairpay, with every claim of underpayment being disputed, and ultimately requiring the assistance of attorneys to help us obtain appropriate reimbursement for the services we provided.

The rates reimbursed were often less than those paid by Government payers. Backus has logs detailing serious underpayments of more than 300 accounts.

efc

We appreciate your careful consideration of this matter, and respectfully request that the Labor and Public Employees Committee and the General Assembly Reject Raised Bill No. 61.

Respectfully submitted,

Joan Orowson
Director, Patient Business Services
The William W. Backus Hospital
326 Washington Street
Norwich, Connecticut 06360



365 Montauk Avenue | New London, CT 06320
860 442 0711 | lmhospital.org

61
192
February 18, 2014

STATEMENT OF
PAUL CHAUSSE, DIRECTOR OF REVENUE CYCLE
OPPOSING RAISED BILL NO. 61

1. For almost twenty years, Lawrence and Memorial Hospital has operated under a system under which we negotiate contracts with insurance companies or preferred provider organizations in all areas including workers' compensation.
2. This continues until today except for a small number of clients of Fairpay Solutions.
3. In approximately 2007, Fairpay Solutions arrived on the scene. Instead of negotiating contracts, Fairpay's clients began paying deeply discounted rates based upon Fairpay's interpretation of costs.
4. Their payments were consistently below what a completely uninsured, indigent person would pay to the hospital.
5. We tried to negotiate or even get an explanation of how they arrived at what they paid - without success.
6. When we tried to discuss this with the insurance companies or self-insured employers, we were told to take it up with Fairpay
7. When we could get no satisfactory answers, we turned the matter over to our attorneys
8. Four test cases were selected and the Workers' Compensation Commissioner, David Schoolcraft, ruled in our favor in a 21 page opinion. Commissioner Schoolcraft ruled that workers compensation carriers, like all other non-governmental payors including health insurers, must negotiate a rate of reimbursement with hospitals before services are provided, or they are required to pay the hospitals published charges.



2/2

9. After Commissioner Schoolcraft's ruling a couple of the larger employers have negotiated mutually acceptable contracts. We have come to agreement with everyone who has approached us. ~~In addition, we have negotiated many individual agreements on claim by claim bases.~~ This is how business has been conducted for the past 20 years.
10. The matter is now before the Connecticut Supreme Court. All parties have filed briefs. The Connecticut Hospital Association and Connecticut Business and Industry Association have also filed briefs. The matter will be scheduled shortly for oral argument and decision.
11. I ask you not to interfere and allow the process to work.
12. The bill as drafted proposes a fee schedule which would not even cover the costs for hospital services. This went on far too long in the Fairpay era. Connecticut hospitals treat Medicare and Medicaid patients at well below the cost of providing services. The proposed formula does not cover those costs, or other substantial costs like treatment of uninsured individuals. The current situation allow for open negotiations and the ability to cover costs for CT hospitals.
13. While the bill speaks of negotiation, there is no incentive for insurance companies to negotiate since the formula provides a rate of reimbursement below cost.
14. The Connecticut Business and Industry Association recently advocated for a system under which payers would be allowed to negotiate rates with hospitals. This system has existed for 20 years. This proposed bill would destroy the system.

I urge the Labor and Public Employees Committee and the Legislature to Reject Raised Bill No. 61.



165 Capitol Avenue
Hartford, CT 06106-1658

Senate Bill 61

An Act Concerning Workers' Compensation and Liability for Hospital Services

Labor and Public Employees Committee

February 18, 2014

The Department of Administrative Services (DAS), as the agency responsible for administering the State's workers' compensation program, offers the following testimony regarding Senate Bill 61, *An Act Concerning Workers' Compensation and Liability for Hospital Services*. DAS supports the establishment of a fee schedule setting the liability of employers for workers' compensation-related hospital services because it is well-established that negotiating discounts off of the master charge list is not an efficient or cost-effective way of providing medical services to injured employees. It should be noted, however, that the bill as currently drafted omits a crucial component; its scope should also encompass surgery centers. DAS would be happy to meet with the proponents of this bill to discuss in more detail how best to achieve the objectives of SB 61.

DAS also wanted to flag for the Committee's consideration line 82 of SB 61, which seeks to repeal section 31-294h of the Connecticut General Statutes (line 82). This statute relates to benefits for policies officers and firefighters who experience mental or emotional impairments and is completely unrelated to the issue of establishing a fee schedule. As such, DAS does not understand why this provision has been included in SB 61.

61

1 of 2



TESTIMONY OF
MIDDLESEX HOSPITAL
SUBMITTED TO THE
LABOR AND PUBLIC EMPLOYEES COMMITTEE
Tuesday, February 18, 2014

SB 61, An Act Concerning Workers' Compensation and Liability
For Hospital Services

Middlesex Hospital appreciates the opportunity to submit testimony concerning SB 61, An Act Concerning Workers' Compensation and Liability for Hospital Services. Middlesex Hospital opposes the bill as written.

Middlesex Hospital is committed to improving patient care and ensuring that every person receives safe, excellent care. At Middlesex, we are constantly working to identify opportunities for improving the quality and safety of the care we provide as well as to make the experience of the patient and their family the best possible. We treat patients regardless of their ability to pay and strive to have third party payment arrangements in place along with a liberal Charity Care program to relieve patient stress on how the Hospital is to be compensated for services rendered.

SB 61 as proposed would make three significant changes to workers' compensation and liability for hospital services. First, for hospital services rendered prior to July 1, 2016, it would make a change from what is currently required under Connecticut General Statutes Section 19a-166 (i.e., rates and fees negotiated between the payer and the hospital to a set of costs determined by the Commissioner) to an amount equal to the operating expense plus an amount for uncompensated care. Second, it would limit the time to identify disputes to one year from the date of payment to a hospital or one year from when the employer notifies the hospital of a dispute. Third, it requires the chairman of the Workers' Compensation Commission to establish a fee schedule for hospital services.

SB 61 should be rejected for several reasons.

First, if passed, SB 61 would interfere with the orderly resolution of disputes currently pending before the Connecticut Supreme Court. At issue in the pending disputes is the refusal of a small number of workers' compensation insurers to negotiate rates and methods of reimbursement with hospitals as required by Connecticut General Statutes Section 19a-166; this minority of insurers prefer a system by which they decide, claim by claim, what they are going to pay, and hospitals are left to appeal, claim by claim, if they don't agree. We judge it inappropriate for the legislature to actively pass legislation that could have an effect on the Supreme Court's deliberations. The issue should be adjudicated as it currently stands.

2 of 2

Second, the amount proposed as payment for hospital services prior to adoption of a fee schedule is wholly inadequate. Operating expense plus the cost of uncompensated care would not provide enough to cover all incurred costs – it would exclude: the annual \$235 million hospital tax, which adds seven percent to the cost of employer-sponsored private and workers' compensation insurance; the annual \$710 million Medicaid payment shortfall, which adds another 20 percent to the cost of employer-sponsored health insurance and workers' compensation; and the annual \$364 million Medicare shortfall, which adds another 10 percent to the cost of employer-sponsored health insurance and workers' compensation. Any change to the current situation has to recognize the need for a hospital to be compensated sufficiently to cover all of these costs.

Hospitals in Connecticut each is unique in its commitment to technology and approach to treatment of injuries and ought have the flexibility to continue to negotiate with workers' compensation insurers taking into account its unique treatment plans and outcomes from those treatment plans as they do with other commercial health coverage payers to ensure that reimbursement is appropriately aligned with costs and outcome success rates. Middlesex Hospital currently has payment agreements with many workers' compensation companies and these agreements have worked well for years. We have been willing to negotiate individually with any company willing to negotiate in good faith.

We are ready and willing to work on solutions and look forward to the opportunity to do so.

Thank you for your consideration of our position.

Sincerely,



Vincent G. Capece, Jr.
President and CEO



TESTIMONY
LABOR AND PUBLIC EMPLOYEES COMMITTEE
TUESDAY, February 18, 2014

SB 61, An Act Concerning Workers' Compensation and Liability for Hospital Services

Yale New Haven Health System (YNHHS) -- Connecticut's leading healthcare system with over 18,000 employees and nearly 6000 medical staff appreciates the opportunity to submit testimony concerning SB 61, An Act Concerning Workers' Compensation and Liability for Hospital Services. YNHHS opposes the bill as drafted.

Yale New Haven Health System, through Bridgeport, Greenwich and Yale-New Haven Hospitals, and their affiliated organizations, strives to provide access to integrated, high-value, patient-centered care in collaboration with others who share our values. We offer our patients a range of healthcare services, from primary care to the most complex care available anywhere in the world. Bridgeport, Greenwich and Yale-New Haven Hospitals are committed members of their local communities.

YNHHS hospital affiliates care for more than one quarter of the State's Medicaid enrollees and provide millions in free and uncompensated care to those who need our services and cannot pay for them. Every day, our staff cares for individuals and families who lack access to medical, dental and behavioral health care. Our emergency departments are filled with individuals, many of whom have delayed treatment, or who do not have anywhere else to go for medical or mental health care. In the winter, those in need of shelter from the cold also come to us. Our patients and our communities count on us.

As currently drafted, SB 61 would make drastic changes to Connecticut's workers' compensation laws. The bill would change workers' compensation liability for hospital services rendered prior the July 1, 2016 from what is currently required under Connecticut General Statutes, Section 19a-166, which allows for the negotiation of rates and fees between the payer and hospital. The bill would also limit the time to identify disputes to one year from the date of payment to a hospital or one year from when the employer notifies the hospital of a dispute. Additionally, the bill requires the chairman of the Workers' Compensation Commission to establish a fee schedule for hospital services.

YNHHS currently negotiate rates and contracts with workers' compensation payers, and these changes would only serve to increase our hospitals' burden and reduce payments at a time when hospital reimbursements have deteriorated due to devastating state reductions. In addition to a hospital tax that was implemented in 2011, hospitals are already under-reimbursed for the care we provide to some of the state's sickest patients. Furthermore, the state reduced payments to

2/2

hospitals by \$550 million in the 2013 legislative session thus making it difficult for many hospitals to thrive.

Our focus is providing high-quality care to all our patients, but measures such as Senate Bill 61 that constantly chip away at our payment levels make it increasingly difficult to do so. Senate Bill 61 will increase healthcare costs and negatively impact our patients when limited healthcare resources necessary to improve patient care, safety and clinical quality are diverted.

On behalf of YNHHS, we respectfully recommend that the Labor Committee reject Senate Bill 61 as it is currently drafted.

Thank you for your consideration.