

**Connecticut State Medical Society**  
**Testimony in Support of Raised Bill No. 7715 with proposed revisions**  
**An Act Concerning a Professional Assistance Program for Health Care**  
**Professionals**

Senator Handley, Representative Sayers, Senator Slossberg, Representative Malone and Members of the Public Health Committee:

My name is Maureen Sullivan Dinnan and I am here on behalf of the Connecticut Medical Society to request your support of Raised Bill No. 7715, An Act Concerning Professional Assistance Programs for Health Care Professionals, with revised language submitted by the Department of Public Health and Coalition of Health Care Professionals, of which CSMS is a member. For the past three years, I have been counsel to the Physician Health Program of CSMS, and for the past two years have worked with the Coalition on behalf of CSMS.

The Connecticut State Medical Society strongly supports legislation to enable the establishment of a Health Care Professional Assistance Program as an alternative and confidential opportunity for rehabilitation for all members of the health care team. This Bill recognizes the serious need in Connecticut for effective services, while making patient safety the top priority.

As you are aware, a similar bill was introduced last session. In this past year, we have worked to make that bill even better. To be an effective confidential assistance program, the program will need to work with the state regulators. To this end, we have worked with the Department of Public Health to develop a strong program and clear policy for our state. A copy of the proposed revised language is attached.

The key provisions to this Bill with revised language are:

- Establishment of one single assistance program for health care professionals. By having one program, consistency of administration as well as intervention and monitoring is enhanced. To accomplish this end, language was clarified in Section 1(b). Further, the definition of medical review committee as set forth in the Raised Bill is unworkable for the administration of one statewide program as it limited medical review committees to those described in section 19a-17b. Some health care professionals do not qualify under 19a-17b, therefore, the definition was revised. Finally, in order to have one

program, existing Conn. Gen. Stat. Sec. 20-13e needs to be revised to be consistent with this new bill. The proposed revision to Conn. Gen. Stat. Sec. 20-13e agreed upon by CSMS and the Department is attached. You will note that it allows for physicians who are currently in a confidential program to continue in the confidential agreement as well as recognizes that the department may not run a separate program.

- (2) The bill with the revised language restores the confidentiality language which was agreed upon last session with insight from the department and the Connecticut Trial Lawyer's Association. You will note Section 1(h)(1) is modeled after the Lawyers Assistance Program, Conn. Gen. Stat. Sec. 51-81d(f). Section 1(h)(2) was modeled after state and federal laws. It is essential that no member of a medical review committee or the oversight committee be subject to discovery or testimony in any civil action. This section specifically addresses concerns raised by the trial lawyers. Records generated independent of the assistance program process may not be precluded; testimony regarding knowledge acquired independent of the process may not be precluded; in a medical malpractice case where a patient has alleged harm by a health care professional, the fact that at the time the alleged harm occurred, the professional was requested to refrain from practice or their practice was restricted will not be precluded. Finally, the fact that a health care professional participates in the program, the dates and reason for participation and confirmation of successful completion may only be disclosed after the opportunity for a hearing by the court with a determination of good cause and appropriate safeguards for further disclosure. Section 1(h)(3) provides for the use of records of a health care professional who must be referred to the department under other provisions of the bill where disciplinary action has been deemed warranted.
- (3) Accountability is ensured not only through the medical review committee and mandatory periodic reviews, as well as the oversight committee and annual audit as provided for in the current bill, but also accountability is enhanced through a mechanism for remedial action if appropriate. Under Section 2(e) of the revised language, if the oversight committee determines that the program has not acted in accordance with the provisions of the Act or remedial action is required based on the audit, the oversight committee must give notice to the program. Within 30 days of receipt of the notice, the program shall develop and submit a corrective action plan to the oversight

committee. The language of the bill encourages the program and the oversight committee to work together in developing the corrective action plan. Upon the oversight committee's approval of the plan, the plan is submitted to the program and the department. If the corrective action plan is not met, the oversight committee may amend the plan or refer some or all of the program records to the department. The referral does not automatically jeopardize confidentiality, but enables the department to determine continued eligibility for confidential treatment. Upon successful completion of the corrective action plan, records and professionals may be returned to the program. This provision benefits the program, the oversight committee, the regulators and the public.

The existing means for rehabilitation in Connecticut is based on punitive sanctions. Yet, there is no data to support punishment as an effective deterrent. Nurses, physician assistants, dentists, veterinarians and other health care professionals do not have employee assistance programs to turn to for help or for a confidential alternative to public sanction. Identification of impairment or suspected impairment means an investigation by the Department and public action by the respective board or commission. This also means personal information regarding mental health or substance abuse is now available on the internet.

Finally, this Bill does not diminish or reduce the Department's independent powers to investigate individuals. If a professional refuses to accept program recommendations or is not compliant with the rehabilitation program, the program will refer the individual to the Department for appropriate investigation and action.

Raised Bill 7155 with revised language submitted by the Coalition and the Department makes an important public policy statement. The State of Connecticut recognizes that education, prevention and intervention before patient harm occurs is the goal of this state. Rehabilitation before harm is more effective in protecting public safety than discipline. Indeed, too often, discipline is too little and too late.

For these reasons, we ask that you support Raised Bill 7155 with revised language as submitted by the Department of Public Health and the Coalition.