

**Opening Remarks Regarding Raised Bills 6471  
Insurance and Real Estate Committee**

Good day Senator Crisco, Representative Megna, vice chairs, ranking members and members of the Insurance & Real Estate Committee.

My name is Michael Nicastro and I am the President & Chief Executive Officer of the Central Connecticut Chambers of Commerce headquartered in Bristol.

I appear before you in support of Raised Bill 6471, An Act Prohibiting Most-Favored-Nation (MFN) Clauses in Health Care Provider Contracts. Prior to taking on my current role leading the Central Connecticut Chamber I was the Senior Vice President and Chief Marketing Officer of Open Solutions Inc, Connecticut's largest state based software company.

During the 14 years with Open Solutions one of my primary responsibilities as CMO was to oversee all third party contractual relationships. As such I am very familiar with Most-Favored-Nations clauses and how they can be used both effectively and in some cases detrimentally in business situations.

With that as background let me provide you with an example from my experience. When Open Solutions was in its early stages as a company we entered into a reseller arrangement with one of our largest competitors. Through this arrangement we were able to leverage the size and distribution strength that this competitor could deliver which we as a start-up company lacked.

Contained in the initial drafts of the agreement was both exclusivity and MFN clauses. To avoid both of these clauses from becoming a method of suffocating our young company we modified the language to provide for both exceptions to the exclusivity and MFN status.

This was done by developing a set of performance metrics that the reseller needed to attain in order to maintain not only their exclusivity but the MFN status as well. Failure to meet set sales goals resulted in either offsetting royalty payments or the loss of MFN status. These goals were annualized but also had quarterly benchmarks and reviews.

Throughout the process we needed to take great care to balance the need of the company with the opportunity that a large partner could provide while at the same time not compromising our business model or federal anti-trust laws.

In that case where we were selling software and services across all states in some cases globally the process worked well. It was for the most part a business to business sales model and all prospective clients had a meaningful choice of providers and simply could have gone elsewhere for service.

While this is an example of an effective use of a MFN there are circumstances where the use does not translate well. One area for certain is that of Health Care Providers and their agreements with Medical Service providers.

As a business person I can tell you that at first blush not using an MFN is counter intuitive. But as a matter of public policy the use of MFN in some cases just does not work. With current legal constraints on cross border insurance sales and the anti-trust exception enjoyed by the industry the medical providers are placed at clear competitive disadvantage. Contracting health organizations that garner and control the highest percentages of market share can use MFN as tool to further erode competition.

The end result is a lack of competitive pricing that ultimately gets passed along to businesses and individuals. By restricting the use of MFN under this very narrowly drafted bill the legislature can provide a competitive protection that the anti-trust exception has inadvertently created.

As a Chamber of Commerce we are very concerned with overall tenor and discussion of the healthcare debate. One thing we can agree on is that improving the competitive nature of the market can help. Certainly the prohibition of MFN clauses in these contracts is a positive step and one our Chamber can support in Bill 6471.

Thank you for the opportunity to speak before you this morning and I am happy to answer any questions that you may have regarding this issue.