

Testimony of Brenda Shipley

Submitted to the **Public Health** Committee
In opposition to bill **HB 5434**
March 16, 2012

Good afternoon Senator Gerratana, Representative Ritter, my Representative Widlitz, and other members of the public health committee. Thank you for the opportunity to submit testimony before you today. For the record, I am Brenda Shipley and I am a survivor of medical malpractice. I am here today to urge you to **vote in opposition** of HB 5434. The intent of this bill is to chip away at patient rights, and make it even more difficult than it already is for patients injured by medical error to be compensated for the injuries they sustain in our hospitals.

If medical error were a category, it would be the sixth leading cause of death in the U.S.¹ Medical errors occur when hospital staffing, communication, patient hand-off, and training issues go unaddressed. When there is cultural contempt for the uninsured. Preventable medical errors may result from medication issues, hospital acquired infections, diagnostic errors, equipment failure, staff fatigue, or staff impairment due to drugs or alcohol. A patient cannot fix any of these problems, but through this bill, the people that *can* fix these problems escape accountability for not doing so.

My medical errors were caused by a heroin-addicted surgeon that was aided and abetted by a hospital culture that protected him instead of his patients. I don't know which was worse, having a life-threatening illness or a life-threatening doctor. It's simply not okay to injure patients in our emergency rooms and get away with it. We shouldn't tolerate it and we certainly shouldn't legislate it.

There is no evidence of a public health benefit to this bill. There is no evidence that increasing the burden of proof of medical injury will increase the quality of emergent care our patients receive. There is no evidence that emergency room patients in our state are suing for injuries and being awarded medical malpractice payments for cases that lack merit. In fact, medical malpractice payments in Connecticut have decreased every year in the last four years and are now 44% lower than they were in 2007.²

¹ American Association for Justice, *Medical Negligence: The Role of America's Civil Justice System in Protecting Patients' Rights*. 2011. Available at http://www.justice.org/resources/Medical_Negligence_Primer.pdf

² National Practitioners Databank, *Medical Malpractice Payment Reports*. Available at: <http://www.npdb-hipdb.hrsa.gov/resources/npdbstats/npdbTableCT.jsp>

The way I look at it, this bill will shift costs from malpractice insurers to taxpayers for medical injuries sustained by the uninsured in our hospital emergency rooms. Contrary to its “public health” packaging, this bill is really about tort reform. Tort reform has not proven to be an effective vehicle for improved public health policy. Texas passed tort reform in 2003 to limit injured patient rights. It was a colossal failure in every aspect.³ Healthcare spending in Texas rose to almost twice the national average⁴, The American College of Emergency Physicians gave Texas an “F” for access to emergency medical care,⁵ and the state continued to rank near the bottom of national rankings of quality of patient care.⁶

I leave you with this. There are 3.5 million healthcare consumers in this state. Each of us, at any time, can find ourselves in medical crisis in our local emergency room. When this happens, we want to know that every step has been taken to ensure our safety, that no corners are cut because of financial incentives, or lack of disincentives, and that patients are treated on the basis of medical need and not their ability to pay or their ability to hurdle varying degrees of burden of proof in order to be compensated should they suffer medical harm.

Thank you for hearing my testimony today.

³ T. Lincoln, *A Failed Experiment: Health Care in Texas Has Worsened in Key Respects Since State Instituted Liability Caps in 2003*. Public Citizen, 2011. Available at <http://www.citizen.org/documents/a-failed-experiment-report.pdf>

⁴ A. Gawande, The Cost Conundrum: What a Texas town can teach us about health care. *The New Yorker*, 2009.

⁵ American College of Emergency Physicians, *The National Report Card on the State of Emergency Medicine*. 2012.

⁶ J. C. Cantor, C. Schoen, D. Belloff, S. K. H. How, and D. McCarthy, *Aiming Higher: Results from a State Scorecard on Health System Performance*. The Commonwealth Fund Commission on a High Performance Health System, 2007.