



PROPOSED BILL 446

Insurance & Real Estate Committee Public Hearing: 2/19/13

Chairmen Crisco and Megna, members of the Insurance and Real Estate Committee, I am here today to testify in **opposition** to proposed bill 446, An Act Concerning Health Insurance Coverage and Tort Reform, particularly as it may have an adverse effect on patients harmed by medical negligence and their access to the courts of our state.

Many of us remember the three-year battle leading up to the 2005 medical malpractice bill, which saw an effort to cap non-economic damages, among other onerous measures, all in an attempt to halt rising malpractice insurance premiums for doctors in Connecticut. That bill seemed to have the intended effect, as I'm sure others will testify—because premiums have leveled-off. We see no need to further infringe upon patients' rights and access to the courts, particularly as it has been proven that such infringements do not reduce the burden on health insurance in the same manner that paying closer attention to patient safety and preventable errors does.

In 2005, I assisted victims of negligence and healthcare harm to the Legislative Office Building to testify as to the impact of medical negligence on the individual and his or her family. Many came in wheelchairs -- bereaved and broken by a delivery system that had harmed them; and others came with the memories of family members who died as a result of medical negligence. After three years, when comprehensive reform had been negotiated and passed in 2005, those of us who had testified decided to form a not-for-profit member-driven organization -- the Connecticut Center for Patient Safety -- and we have been the voice for the healthcare patient ever since, speaking up for their rights and safety.

As of 2002, there had been one study -- a 1998 Institute of Medicine (IOM) study that substantiated between 46,000 and 98,000 preventable deaths each year caused by medical negligence. The proponents of tort reform said that the research was flawed and that the study was unreliable. That has changed. Now, no one argues that healthcare delivery systems have very serious challenges in providing consistent quality care. Since the initial IOM report, there have been several studies confirming the problems with medical negligence and the serious need for better systems to protect patients from unnecessary harm.

Within the last few months, there have been three reports to indicate that we -- unfortunately -- continue to have problems with care delivery.

1. “Connecticut is the only New England state—and one of just three nationally—to have no hospitals designated as “Top Performers” by The Joint Commission, which issued an annual report gauging the performance of more than 3,300 accredited hospitals on 45 accountability measures linked to positive patient outcomes.” http://c-hit.org/2012/09/20/connecticut_hospitals_dont_make_top_performer_list/

2. “Connecticut fared second-worst in the country in the percentage of hospitals hit with federal penalties for selected quality-of-care measures and in the overall rate of loss of Medicare reimbursements associated with those penalties, new federal data shows.”<http://c-hit.org/2013/01/14/state-hospitals-face-2nd-highest-rate-of-federal-penalties-nationwide/>

3. “Medicare on Thursday disclosed bonuses and penalties for nearly 3,000 hospitals as it ties almost \$1 billion in payments to the quality of care provided to patients... On average, hospitals in Maine, Nebraska, South Dakota, Utah and South Carolina will fare the best, while hospitals in the District of Columbia, Connecticut, New York, Wyoming and Delaware come out among the worst.” <http://www.kaiserhealthnews.org/stories/2012/december/21/medicare-hospitals-value-based-purchasing.aspx>

I understand that everyone goes to work believing they are doing a good job. Healthcare professionals are often overworked and more and more work seems to be demanded of them. These latest reports indicate that while they believe they are doing a good job – in many instances they are not. Every statistic has a story and we continue to tell that story.

Indeed some hospitals in Connecticut have hired Healthcare Performance Improvement Safety engineers from the nuclear and aviation industries, to bring their expertise to hospital delivery systems. With acknowledgement of the extent of the preventable error, when the leadership of the hospital drives the patient safety team, there is a remarkable decrease in preventable error. As a state, we should get behind this exciting effort to change the way care is delivered.

Connecticut hospitals lag behind other states’ efforts to improve quality and safety. By the way, improved delivery directly correlates to decrease in costs. For example, the average cost based on length of stay for a patient without an infection is about \$4,500 and with an infection, the cost is more than \$20,000 (Pennsylvania Cost Containment Council).

Our priority needs to be – not tort reform – but delivering better care. Acknowledgement of harm also drives down litigation. Let’s start there -- and not start with the harsh and unnecessary concept of changing a very important constitutional promise of access to our courts.

Thank you for opposing Proposed Bill 446.

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