



**Connecticut State Medical Society, Connecticut Society of Eye Physicians, CT ENT Society, CT Urology Society and the CT Dermatology and Dermatologic Surgery Society  
On House Bill 5337 An Act Concerning Fees Charged  
For Services Provided At Hospital-Based Facilities  
General Law Committee  
March 6, 2014**

Senator Doyle, Representative Baram and members of the General Law Committee, on behalf of the physicians and physicians in training of the Connecticut State Medical Society (CSMS) and other societies listed on this testimony thank you for the opportunity to present this testimony to you today on House Bill 5337 An Act Concerning Fees Charged For Services Provided At Hospital-Based Facilities

While CSMS fully supports the intent of the language to increase transparency regarding facility fees charged to patient for services provided by hospital owned facilities, we offer the following comments and concerns.

The issue before you today relates directly to the passage of Public Act 03-274. The Public Act not only required facilities (including physician offices) providing services under moderate and deep sedation to obtain a license from the Department of Public Health (DPH) but also to obtain a Certificate of Need (CON) from the then independent Office of Healthcare Access (OHCA).

At that time, CSMS raised significant concern that the legislation was not consistent with Federal Trade Commission (FTC) recommendations and that the legislation would ultimately lead to an increase (not a decrease) in health care costs. Unfortunately, as demonstrated by the need for the legislation before you today, our argument was not successful at the time but the results are what we had previously outlined and were concerned would occur in Connecticut.

During the debate, CSMS presented a significant amount of information and material demonstrating that the facilities and/or offices in question were accredited by comprehensive requirements of national organizations. Furthermore, we agreed with the need for licensure by DPH to ensure that those standards, as well as state and local requirements were met. We adamantly argued that the requirement for a CON would stifle competition, be a detriment to the private practice of physician practices and to the recruitment of new physicians and ultimately lead to a more expensive system. That unfortunately, has occurred in Connecticut, in a very short time, quicker than even we could have predicted.

We applaud the Attorney General for bringing forward this legislation that will provide transparency regarding the cost that the associated facilities (hospitals) charge in addition to the true cost of providing the service. We do, however, feel it necessary to raise a concern with the language of this bill as drafted.

We feel that it might raise red flags in terms of compliance with anti-trust laws and further create an imbalance between hospitals and the physicians in their service that unfortunately was the result of PA 03-274.

HB 5337 establishes a definition of "Affiliated Provider," in part, as any physician under an agreement with a hospital or health service to provide services. This is a very broad definition and could encompass physicians who provide part-time services for the hospital and those physicians who simply take call at a hospital through a services-based agreement. Section 2(a)2(A) contains language that would imply that the Affiliated Provider would be required to provide to the hospital information regarding the physician's professional fee for the service. This raises significant concern. Contractual relationships between hospitals and affiliated providers (physicians) are not employment agreements in which the physician is a salaried member the hospital staff. They are contracted providers and remain in independent practice outside of the hospital setting. The need for such independent "Affiliated Providers" to disclose professional fee components could provide the hospital with information that is prohibited under anti-trust laws. Fee sharing between providers is subject to significant scrutiny under anti-trust law and raises red flags in the mind of federal enforcement authorities. Physicians that operate under a services agreement with a hospital may in fact be seen as competitors outside the services provided under that agreement. Fee sharing in that scenario would raise even more significant anti-trust concerns. The proposed language in this bill may require fee disclosure that is to the benefit of the hospital and the detriment of the physician who is in many ways independent of the hospital and in fact in competition with the hospital for the provision of other services not expressly contracted for in the service agreement.

We suggest that language in Section 2 of the bill be amended to require that the hospital or facility inform the patient of the potential of a professional charge from the Affiliated Provider. Physicians should be required to provide this information to patients upon request but should not be required to provide proprietary, and potentially unlawful, information to a hospital or any other contractual partner.

Thank you for the opportunity to provide this information to you today.