
OLR Bill Analysis

HB 5338

AN ACT CONCERNING THE ADMISSIBILITY OF RECORDS AND REPORTS OF CERTAIN EXPERT WITNESSES AS BUSINESS ENTRIES.

SUMMARY:

This bill applies the same rules in civil cases concerning the admissibility of records or reports of out-of-state physicians and various other professionals as currently apply to such in-state professionals. It does so by eliminating the requirement that, for the rules to apply, these professionals be licensed or certified in Connecticut. The bill also applies the same rules to social workers and “mental health professionals” (undefined by the bill).

Under existing law, the rules apply to physicians, dentists, chiropractors, naturopaths, physical therapists, podiatrists, psychologists, emergency medical technicians, optometrists, physician assistants, and advanced practice registered nurses. As noted below, certain provisions also apply to professional engineers and land surveyors.

Generally, the rules allow:

1. the provider’s signed reports and bills to be introduced as business entry evidence in civil cases without calling the person to testify;
2. the records and reports of such providers, professional engineers, and land surveyors to be admitted as business entry evidence in personal injury cases if the professional (a) died before trial or (b) is physically or mentally disabled and thus, no longer practicing; and

3. for purposes of the collateral source rule, the admission of evidence that (a) the provider accepted an amount less than his or her total bill or (b) an insurer paid less than the total bill.

The collateral source rule generally requires courts to reduce economic damage awards by the amount the claimant received from health insurance or other collateral sources.

EFFECTIVE DATE: October 1, 2014, and applicable to all actions pending or filed on or after that date.

BACKGROUND

Business Entry Evidence

By law, when a health care provider's signed reports and bills are introduced as business entry evidence without calling the provider to testify, it is presumed that the signature on the report is the provider's and that the report and bill were made in the ordinary course of business. The use of such evidence must not give rise to an adverse inference concerning the provider's testimony or lack thereof.

The total amount of the provider's bill is admissible evidence of the cost of reasonable and necessary medical care. The calculation of the total amount of the bill must not be reduced because (1) the provider accepts less than the total bill or (2) an insurer pays less than that amount.

Either party or the court may call the treating provider as a witness, including to testify on the reasonableness of his or her bill for treatment.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 39 Nay 3 (03/10/2014)