
THE CMIC GROUP

POSITION PAPER ON SENATE BILL 1028

AN ACT CONCERNING THE TOLLING OF THE STATUTE OF LIMITATIONS FOR A NEGLIGENCE ACTION BROUGHT BY A MINOR

As one of the leading medical malpractice insurers in the state of Connecticut, CMIC must voice its opposition to Senate Bill 1028. This Bill will have a detrimental effect on Connecticut healthcare providers and their insurers and should be rejected for the following reasons.

1. First, there is no discernible reason why this bill is necessary to protect the citizens of the state of Connecticut. By its terms, the Bill would affect only minors between the ages of 10 and 16. (Minors younger than age 10 who sustained an injury would be barred by the 8-year statute of repose in SB 1028 by the time they reached their 18th birthday, while minors who have already reached their 17th birthdays would have until age 19 under current law in any event.) Under current law, many minors seek redress for injuries caused by negligence in actions brought through their parents or “*per prochein ami*” (through their next friend) and there is no evidence that minors of any age have inadequate access to court. SB 1028 thus proceeds upon the questionable premise that there is a sizable group of parents of children between ages 10 and 16 who are reluctant to enforce their children’s rights and, consequently, that the legislative powers of the state should be mobilized to address the situation. We have seen no evidence of this. The Bill, in short, appears to be a solution in search of a problem.
2. From the insurance perspective, SB 1028 increases the already long “tail” exposure for healthcare providers, which will have significant consequences. In insurance parlance, the “tail” is the time between the act that causes the injury and the time a claim for that injury is resolved by settlement or judgment. It is a fundamental tenet of insurance that the longer the tail period the more difficult and costly it is to defend and resolve claims. As the “tail” increases, more uncertainties enter the picture. Memories may fade, witnesses may become unavailable, important records may be lost, doctors may retire from practice, etc. Under current Connecticut law, it is typically almost 2 years between the time of an injurious act and the time a claim for that injury is made. Frequently, this period is longer than 2 years because of the “discovery” provision in General Statute 52-584. By the time claims are resolved by settlement or judgment it is typically around 5 years from the date of the injurious act and not uncommonly it is 6 to 8 years. Under SB 1028, the “tail” on many claims could be increased substantially and could readily exceed 10 years thereby bringing even more pressure to bear on the costs of claims and the costs of premiums for insurance protection.
3. Because SB 1028 deals with the rights of minors, it will have a disproportionate effect on those who practice in one of the most vital and

necessary primary care specialties, i.e., Pediatrics, and on the children's hospitals. The burdens on these medical providers to deliver increasingly high quality medical care at lower and lower reimbursement rates are already extraordinary. Increasing the liability exposure to these essential providers will result in cost increases for insurance protection and, in turn, threaten the delivery of care to Connecticut's pediatric population as practitioners in this vital area seek greener pastures within which to practice.

In conclusion, SB 1028 is counter-productive to the real interests of the citizens of the state of Connecticut. Instead of increasing the liability exposure of Connecticut's healthcare providers, the Legislature should be curtailing it and thereby securing healthcare delivery in these times of change and uncertainty.

The CMIC Group urges the rejection of this partisan and unnecessary Bill.

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The CMIC Group