CONNECTICUT HOSPITAL ASSOCIATION

**TESTIMONY OF**
**CONNECTICUT HOSPITAL ASSOCIATION**
**SUBMITTED TO THE**
**JUDICIARY COMMITTEE**
**MONDAY, MARCH 21, 2016**

## SB 457, An Act Concerning A Cause Of Action For Injury To Person Or Property Based On Negligent Infliction Of Emotional Distress

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **SB 457, An Act Concerning A Cause Of Action For Injury To Person Or Property Based On Negligent Infliction Of Emotional Distress.** CHA opposes the bill.

Before commenting on the bill, it's important to point out that Connecticut hospitals provide core healthcare services to all of the people in Connecticut, 24 hours a day, regardless of ability to pay. Connecticut hospitals offer safe, accessible, equitable, affordable, patient-centered care that protects and improves peoples' lives.

SB 457 would create a statutory cause of action for negligent infliction of emotional distress. CHA is not aware of any reasons that would make this bill necessary. The bill will conflict with, and confuse, existing common law and case-made legal rights.

As the members of this Committee are well aware, whenever common law rights are codified, the process must be done with great care – and with full vision of *all of the consequences* – or there is significant risk of interfering with claims and corresponding defenses. For example, would the bill empower claims against an employer in instances in which, under current law, workers' compensation is the correct remedy? Would current case law elements and defenses still apply, or will the courts be bound by the wording of the statute and be required to ignore other common law principles and precedent? If an underlying claim carries a two-year statute of limitation from discovery of harm, will the statutory claim instead be extended to three years? The bill also implies that a court awards damages, which makes it unclear if these claims are appropriate for jury cases.

Additionally, we are alarmed at the inclusion of attorneys' fees as part of the damages for such claims, which is a vast departure from the current law as well as from general negligence case principles. While there are a handful of statutory claims that allow for the award of attorneys' fees, they are not general negligence-type claims and almost exclusively include a higher *mens rea* component, such as in the statutory private right of action under our CUTPA law.

For these reasons, we urge you to reject this bill.

Thank you for your consideration of our position. For additional information, contact CHA Government Relations at (203) 294-7310.