



**Written Testimony
March 6, 2017
Judiciary Committee**

**Joyce Lagnese, JD
Opposing**

**SB 932 S.B. No. 932 (RAISED) AN ACT ESTABLISHING A
STATUTORY CAUSE OF ACTION FOR INJURY TO PERSON
OR PROPERTY BASED ON NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS**

At the request of the CT medical specialty societies, I have compiled and attached critical data that begins to provide an explanation as to why CT is consistently in the top 5 worst states in which to practice medicine. It supports past testimonies that the Connecticut physician crisis is due in part to runaway verdicts from non-economic damage awards.

Based on our review, of the available verdicts where there was a breakdown of economic vs non-economic damages, the total payout was \$148,552,180. Of that 91% or \$135,183,550 was for non-economic damages! Economic damages accounted for 9% or \$13,368,630.

This bill seeks to *expand* the scope of damages available to litigants in CT for non-economic damages. CT needs just the opposite. The categories of non-economic damages currently available to litigants in CT are already excessive. They include:

- Pain and suffering – past and future
- Mental and emotional distress – past and future

- Permanent injury – for life expectancy
- Loss of life's enjoyment – past and future
- Lost chance of successful treatment/outcome
- Increased risk of future harm
- Fear of increased risk of future harm – past and future
- Loss of life – (separate from loss of life's enjoyment)
- Scarring and disfigurement – for life expectancy
- Loss of spousal consortium – past/ future
- Loss of parental consortium – for injured parents – past/future
- Bystander emotional distress by family members

PLUS - 8% pre-judgment interest (typically adds 25 - 40% to judgments) & 10% post-judgment interest

This bill would put CT even further out of the mainstream for non-economic damages.

For many years the medical community has asked this committee to examine Tort Reform in a comprehensive manner, rather than piecemeal as has been done over the years. A fair and reasonable analysis of this issue requires a task force to examine why year after year Connecticut is ranked in the top five worst states to practice medicine in and why Connecticut has among the highest non-economic awards in the nation.

This is demoralizing the profession and crippling the state's ability to attract young new physicians to replace the aging retiring physicians and to retain the doctors needed to care for our aging baby-boom population.

It is frustrating as a defense attorney to sit day in and out with physicians who have committed their professional lives to doing the very best that they can to help their patients, only to be sued if the outcome is not as expected. To be subjected to the indignity of a multi-million dollar verdict, much of which is for the benefit of the lawyers, is more than many of them can bear – which is why they are retiring early or getting out of CT.

Here is a list of the payouts from 2012- 2017 for your review. I thank

you for your consideration in opposing SB 932 a bill that makes no sense at all in the heavily weighted Trial Bar climate that doctors, patients and society currently endure.

**SUMMARY OF CT MEDMAL VERDICTS
2012-2017**

The following is a sampling of medical malpractice cases that resulted in plaintiff's verdicts between 2012-2/2017 :

- **Radzik v. Connecticut Children's Medical Center** – Alleged failure to inform of cancer risk during administration of drugs to treat Chron's disease
 - \$ 1,624,000 economic
 - \$ 200,000 non-economic (loss of life's activities)
 - \$ 5,000,000 non-economic (pain and suffering)
 - \$ 6,824,000 TOTAL

- **Ashmore v. Hartford Hospital** – Alleged failure to reconnect wires of pacemaker before administering narcotic
 - \$ 75,321 economic
 - \$ 1,200,000 non-economic (estate)
 - \$ 4,500,000 non-economic (loss of consortium)
 - \$ 5,775,321 TOTAL

- **Schneider v. Southern CT Vascular Center** – Alleged failure to diagnose and treat leg clot causing left leg below the knee amputation
 - \$ 353,405.82 economic
 - \$ 3,898,639.00 economic (future expenses)
 - \$20,669,950.00 non-economic
 - \$24,921,994.82 TOTAL

- **Simonds v. Physicians for Women's Health** – Alleged infertility due to transection of fallopian tube.
 - \$ 190,000 economic
 - \$1,300,000 non-economic
 - \$ 310,000 non-economic (loss of consortium)
 - \$1,800,000 TOTAL

- **Hunt v. Kaczmarek** – Outpatient OB procedure resulting in internal hemorrhage from laceration to the uterus

\$ 45,734 economic
\$ 450,000 non-economic
\$ 495,734 TOTAL

- **Kramer v. Markind** – Alleged misdiagnosed brain tumor leading to unnecessary surgery

\$1,200,000 non-economic
\$1,200,000 TOTAL

- **Georges v. OB-GYN Services** – Alleged mismanagement of Shoulder dystocia resulting in Erb's palsy

\$ 60,000 non-economic (past loss of enjoyment of life's activities)
\$2,300,000 non-economic (future loss of enjoyment of life's activities)
\$ 40,000 non-economic (past pain & suffering)
\$ 800,000 non-economic (future pain & suffering)
\$1,000,000 non-economic (permanent injury)
\$4,200,000 TOTAL

- **Iannantuoni v. Yale-New Haven Hosp d/b/a Yale-New Haven Psych** – Alleged failure by psych nurse to monitor the taper of medication before pt. committed suicide

\$12,032,500 non-economic
\$12,032,500 TOTAL

- **Bember v. American Medical Response of CT** – Alleged improper insertion of IV into plaintiff's arm resulting in infiltration of the tissue in arm.

\$ 72,291 economic
\$ 350,000 past non-economic
\$ 300,000 future non-economic
\$ 722,291 TOTAL

- **Wirth v. CT Vascular Center** – Alleged failure to diagnose heart attack resulting in death of 61 y/o male.

\$ 476,000 economic
\$1,524,000 non-economic
\$ 425,000 loss of consortium
\$2,425,000 TOTAL

- **Andrade v. St. Vincent's Medical Center** – Alleged permanent spinal cord injury

from epidural placement during childbirth

\$1,000,000 non-economic (past pain & suffering)
\$1,000,000 non-economic (past loss of enjoyment of life's activities)
\$1,125,000 non-economic (future pain & suffering)
\$1,125,000 non-economic (future loss of enjoyment of life's activities)
\$4,250,000 TOTAL

- **Kantorowski v. St. Vincent's Medical Center** – Alleged misdiagnosis of heart condition leading to heart attack and death

\$ 295,643.72 economic
\$ 8,628.36 economic (funeral expenses)
\$6,000,000.00 non-economic
\$6,304,272.08 TOTAL

- **Olsen v. Litchfield Internal Medicine** – Alleged misdiagnosed heart condition resulting in death

\$ 70,000 economic (as to Estate)
\$1,930,000 non-economic (as to Estate)
\$1,000,000 loss of consortium (as to wife)
\$3,000,000 TOTAL

- **Arroyo v. University of Connecticut Health Center** – Alleged improperly performed vasectomy resulting in L orchiectomy

\$ 36,249.81 economic
\$300,000.00 non-economic
\$ 50,000.00 loss of consortium (to wife)
\$386,249.81 TOTAL

- **Procaccini v. L+M Hospital** – Alleged failure to properly manage Methadone overdose

\$ 12,095 economic (funeral)
\$150,000 non-economic (destruction of capacity to enjoy life's activities)
\$350,000 non-economic (death)
\$512,095 TOTAL

- **Leigh v. Schwartz** – Alleged negligence in causing injury to spinal accessory nerve during 12/08 biopsy on a lymph node resulting in arm and shoulder dysfunction.

\$ 500,000 non-economic (past pain & suffering)
\$ 500,000 non-economic (past loss of enjoyment of life's activities)
\$1,625,000 non-economic (future pain & suffering)

\$1,625,000 non-economic (future loss of enjoyment of life's activities)
\$4,250,000 TOTAL

- **Sarin v. Farmington Family Dentistry** – Negligent performance of a root canal resulting in permanent pain syndrome.

\$ 165,000 economic
\$ 4,335,000 non-economic
\$ 4,500,000 TOTAL

- **Morrin v. Koplin** – Failure to diagnose decedent's mental health problem prior to committing suicide.

\$ 8,008,500 non-economic
\$ 8,008,500 TOTAL

- **Sawicki v. Mandell & Blau** – Alleged failure to diagnose breast cancer on mammogram.

\$ 3,000,000 economic
\$ 3,900,000 non-economic
\$6,900,000 TOTAL

- **Borowiec v Medical Imaging Center**: Alleged failure to diagnose breast cancer on mammogram.

\$1,300,000 non-economic
\$1,300,000 TOTAL

- **Gagliano v. Danbury Hospital** – Alleged negligent performance of a laparoscopic hernia repair.

\$ 902,985 economic
\$ 9,600,000 non-economic (pain and suffering)
\$ 1,500,000 non-economic (loss of services)
\$12,002,985 (reduced to 9,602,388) TOTAL

*Judgment reversed by appellate court. Currently on appeal to CT Supreme Court.

- **Lathan v. Bridgeport Hospital** – Alleged negligent administration of anticoagulation medication causing retroperitoneal hemorrhage

\$ 1,279,885 economic
\$ 8,000,000 non-economic
\$ 9,279,885 TOTAL

- **Pattison v. Danbury Hospital** – Alleged negligent management of sodium levels causing brain damage, paralysis and death

\$ 500,000 economic
\$ 3,000,000 non-economic (anti-mortem pain and suffering)
\$ 3,000,000 non-economic (loss of life)
\$ 6,500,000 TOTAL

- **Rea v. Rubino** – Alleged surgery to wrong body part; lack of informed consent

\$ 5,500 economic
\$ 10,000.00 non-economic
\$15,500.00 TOTAL

- **Lathan v. Bridgeport Hospital** – Improper administration of medication

\$9,279,884 non-economic TOTAL