



To Members of the Committee on JUDICIARY

March 22, 2021 Public Hearing

RE: Raised Bill 1029 --- Actions Against Nursing Homes

STATEMENT IN OPPOSITION TO RAISED BILL 1029

The National Association of Mutual Insurance Companies (NAMIC)¹ and its members, thank you for the opportunity to express strong opposition to legislation referenced above and urge no further action.

This bill would, negate a provision in Governor Lamont’s Executive Order No. 7U² (“EO-7U”), which provides immunity “from suit for civil liability for any injury or death alleged to have been sustained because of the individual’s or health care facility’s acts or omissions undertaken in good faith while providing health care services in support of the State’s COVID-19 response, including but not limited to acts or omissions undertaken because of a lack of resources, attributable to the COVID-19 pandemic...”

This legislation would invite a torrent of costly, unnecessary, and frivolous lawsuits. Current law allows causes of action for acts or omissions that constitute a crime, fraud, malice, gross negligence, willful misconduct, etc. This was affirmed by EO-7U. However, the scope and breadth of this legislation goes well beyond current law as applied to civil actions and entities unrelated to COVID and nursing homes. For example, this bill is drafted so broadly as to allow “any” person to file suit for “any” claim regardless of the claimant having been exposed to COVID-19. The fact is every one of us has been impacted by this pandemic; enactment of a law like this would permit lawsuits by anyone who claims emotional distress over the loss or injury of a loved one (i.e., family, friend, neighbor, co-worker et al) in a nursing home. If this bill were to become law, one could only imagine the barrage of TV advertising from the “we don’t get paid unless you get paid” community, the effects of which could drive up insurance costs and threaten the financial security of Connecticut’s insurance industry, which is an important driver of economic activity in Connecticut providing more than \$169 million in in state premium taxes each year. The insurance industry contributed \$23.3 billion to the

¹ The National Association of Mutual Insurance Companies is the largest property/casualty insurance trade group with a diverse membership of more than 1,400 local, regional, and national member companies, including seven of the top 10 property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 66 percent of the homeowner’s insurance market and 53 percent of the auto market.

² [Executive-Order-No-7U.pdf \(ct.gov\)](#)

Connecticut gross state product (GSP) in 2017, accounting for 8.67 percent of the state GSP and employs nearly 70,000 workers.³

During this past year, as communicable disease experts gained a better understanding of this virus, public health guidelines and safety protocols were modified numerous times and with significant variations. Nursing homes and others took enormous efforts expense to adapt and comport with these fluid directives. The Governor justly and wisely noted in EO-7U that *“in order to respond adequately to the public health emergency posed by the COVID-19 pandemic, it has been necessary to supplement Connecticut’s health care workforce and the capacity of health care facilities to deliver life-saving care by requesting the assistances of health care professionals who have not previously maintained liability coverage; facilitating the deployment of volunteer and out-of-state healthcare professionals; and calling upon healthcare professionals to perform acts that they would not perform in the ordinary course of business... and in order to encourage maximum participation in efforts to expeditiously expand Connecticut’s health care workforce and facilities capacity, there exists a compelling state interest in affording such professionals and facilities protection against liability for good faith actions taken in the course of their significant efforts to assist in the state’s response to the current public health and civil preparedness emergency...”* Accordingly, the financial impact of these present and future lawsuits is incalculable.

Lastly, while it is not entirely clear, this bill appears to permit retroactive claims, which raises grave constitutional issues and concerns for insurers’ financial solvency for claims that were never contemplated and for which premiums were not paid. Moreover, the bill does make clear that that it applies to COVID-19 and “any related mutation thereof” meaning these lawsuits would continue for years to come. In fact, despite great progress in vaccination distributions, this public health emergency is ongoing and there is no firm consensus as to when it will end⁴, nor is there a definitive understanding of the additional variants of the virus.⁵ Medical researchers do not know the full extent of future COVID-related health issues for those who contract the virus. According to the renowned Mayo Clinic – *“The virus can damage the lungs, heart and brain, which increases the risk of long-term health problems.”*⁶

For these reasons, NAMIC and its member companies respectfully ask that you consider the potential adverse impact this legislation could have on the businesses and residents of Connecticut. Thank you for your consideration.

Respectfully Submitted,

Rory Whelan
Regional Vice President, Northeast
National Association of Mutual Insurance Companies

³ [Connecticut Firm Foundation | III](#)

⁴ [The coronavirus is here to stay — here’s what that means \(nature.com\)](#) 02/16/21

⁵ [‘When will it end?’: How a changing virus is reshaping scientists’ views on COVID-19 | Reuters](#) 03/03/21

⁶ [COVID-19 \(coronavirus\): Long-term effects - Mayo Clinic](#) 11/17/20