

**Act Number:** 09-222

**Bill Number:** 6642

**Senate Pages:** 6091, 6100-6102 **4**

**House Pages:** 6407-6421 **15**

**Committee:** Judiciary: 5169, 5170, 5217,  
5218-5219, 5222-5225, 5451-  
5455 **14**

**Page Total:** **33**

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**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2009**

**VOL. 52  
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SENATE

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item on the Consent Calendar.

THE CHAIR:

There's a motion on the floor to place Calendar number 692 on the Consent Calendar. Without objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President. Moving to Calendar page 15, Calendar 700, House Bill 6693, move to place the item on the Consent Calendar.

THE CHAIR:

There's a motion on the floor to place Calendar number 700 on the Consent Calendar. Without objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President. Continuing Calendar page 15, Calendar 701, House bill 6642, move to place the item on the Consent Calendar.

THE CHAIR:

There's a motion on the floor to place Calendar number 701 on the Consent Calendar. Without objection, sir, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, Calendar

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Back on Calendar page 18, Calendar 719, House Bill 6676 is marked go and Calendar page 33, Calendar 354, Senate bill 499 is marked go.

Yes, Mr. President, thank you. At this point if the Clerk might call the items on the Consent Calendar.

THE CHAIR:

Mr. Clerk, please call the Consent Calendar.

THE CLERK:

Immediate Roll Call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate Roll Call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Mr. President, the items placed on the first Consent Calendar begin on Senate Agenda number one, Substitute for House bill 5211, Substitute for House bill 6672 and Senate bill 880.

From Senate Agenda number two, Substitute for House bill 6481 and Senate bill 1128.

Going to Senate Calendar, calendar page 229, Substitute for Senate bill 549. Calendar 229, substitute for Senate bill 547. Calendar page 7,

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Calendar 602, substitute for House bill 6584.

Calendar page 10, Calendar 639, House bill 6684.

Calendar page 12, Calendar 667, substitute for House bill 6539. Calendar page 13, Calendar 678, substitute for House bill 6306. Calendar 679, substitute for House bill 6279 and Calendar 682, substitute for House bill 6041. Calendar page 14, Calendar 692, House bill 6248. Calendar page 15, Calendar 700, substitute for House bill 6693. Calendar 701, substitute for House bill 6642. Calendar page 17, Calendar 714, substitute for House bill 6280. Calendar page 21, Calendar 735, House bill 6523. Calendar page 26, Calendar 337, Senate bill 1047.

THE CHAIR:

Sir, I believe that was 377.

THE CLERK:

Yes, Mr. President, Calendar 377, Senate bill 1047. And Calendar page 33, Calendar 378, substitute for Senate bill 1048. Mr. President, that completes the items placed on the first Consent Calendar.

THE CHAIR:

Please call for Roll Call vote.

Please call for a Roll Call vote on Consent number

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one, the machine will be open.

THE CLERK:

The Senate is now voting by Roll Call on the Consent Calendar. Will all Senators please return to the Chamber? The Senate is now voting by Roll Call. Will all Senators please return to the Chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote, the machine will be locked, the Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar Number One.

Total number voting	36
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar Number One passes.

Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President, would move for immediate transmittal to the House of Representatives

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us in the Pledge of Allegiance.

REP. CONROY (105th):

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

SPEAKER DONOVAN:

Is there any business on the Clerk's desk?

THE CLERK:

Mr. Speaker, there is House Resolution Number 28, A Resolution Proposing Approval of an Arbitration Award Between the Board of Trustees of the Connecticut Community Technical Colleges and the Coalition of the Congress of Connecticut Community Colleges, Local 1973 SEIU and the Federation of Technical College Teachers, Local 1942 AFT, AFT Connecticut AFLCIO.

SPEAKER DONOVAN:

Table for the Calendar and printing. Are there any announcements or introductions? Any announcements or introductions? Representative Giannaros.

Will the Clerk please call 450 -- 450?

THE CLERK:

The State of Connecticut House of Representative Calendar for Tuesday, May 26, 2009. On page 40,



Calendar 450 the substitute for House Bill Number 6642, AN ACT CONCERNING SOLICITATION OF CLIENTS, PATIENTS OR CUSTOMERS, favorable report of the Committee on Insurance and Real Estate.

SPEAKER DONOVAN:

Vice Chair of the Judiciary Committee,  
Representative Fox.

REP. FOX (146th):

Thank you and good morning, Mr. Speaker. I move for the acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER DONOVAN:

The question is acceptance of the Joint Committee's favorable report and passage of the bill.  
Remark sir.

REP. FOX (146th):

Thank you, Mr. Speaker. This bill came to the Judiciary Committee to attempt to resolve a problem that has grown in the state of Connecticut in recent years. It involves the situations where individuals are hired to serve as runners on behalf of either individuals in the medical committee -- community or attorneys. What happens is that certain individuals who are paid will go either to accident sites or -- or

to emergency rooms.

There was one example of an individual actually being taken from an emergency room after they had suffered personal injuries and referred to a different medical provider. Also what will happen, Mr. Speaker, in these situations is that these runners who will then provide clients to these either essentially chiropractors or other medical professionals and attorneys are doing this for pay, and it is a problem that is growing in our state.

We also were told in the Judiciary Committee of problems that had occurred in New Jersey. They enacted a similar statute which it seems has resolved their problem. Now, Mr. Speaker, the Clerk has an amendment, LCO Number 7744. I ask that it be called and I be permitted to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO 7744, which will be designated House Amendment Schedule "A".

THE CLERK:

LCO number 7744, House "A" offered by  
Representatives Lawlor and Fox.

SPEAKER DONOVAN:

Representative seeks leave of the Chamber to

summarize. Are their objections to summarization?  
Representative Fox you may proceed with summarization.

REP. FOX (146th):

Thank you, Mr. Speaker.

What this amendment does is it clarifies certain definitions with respect to the underlying bill. Also it clarifies the definition of "runner", which is an individual who, for a pecuniary benefit, procures or attempts to procure a client, patient, or customer at the direction or the request of a provider whose purpose is to seek to obtain benefit under insurance contact or assert a claim against an insured.

Mr. Speaker, this amendment and the underlying bill has the support of both the lawyers groups, as well as insurance professionals, because the way it was addressed during the Judiciary Committee is that what this does and this practice does is it puts a stain on both the medical and the legal profession.

And by -- by prohibiting this and by making it a crime which will be punishable up to one year in jail or a fine of \$5,000, it would hopefully put an end to a practice that is making both professions essentially look bad. And I urge adoption of the amendment.

SPEAKER DONOVAN:

The question before the Chamber is adoption of House Amendment Schedule "A". Would you remark on the amendment? Representative Sawyer.

REP. SAWYER (55th):

Just for a point of clarification for the gentleman who brought out the bill to you, Mr. Speaker.

SPEAKER DONOVAN:

Please proceed, madam.

REP. SAWYER (55th):

Twice during your description, you referred to the underlying bill and how this affects the underlying bill and, if I have the right copy of 7744, to strike everything. So my understanding that this is now the bill before us. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. Yes that's correct.

REP. SAWYER (55th):

Thank you very much.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Yes. Thank you, Mr. Speaker. If I could just ask a couple of questions about the amendment through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox -- Representative O'Neill, go ahead.

REP. O'NEILL (69th):

I'm going to put the question. With respect to the original bill that was before the Judiciary Committee there was opposition that came from the Connecticut Hospital Association. They were concerned about community meetings and other things to inform people.

And I just wanted to be sure that as we're doing the amendment -- my impression was and I guess this is the first question that we address that issue in the underlying bill which is before us. Is that true? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. This amendment does address that concern. And if -- if the ranking member would turn to Section 3 where runner is defined and

specifically there is an exception C, which discusses an individual who facilitates, presents, or speaks at a meeting, program, or seminar that is open to the public in a -- which information about a provider, services are discussed. And that was meant to address the concern that the Representative references to.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. And there was an amendment that was filed but hasn't been called, and I noticed that the definition -- or the language on line five -- I think it's line five. I'm sorry. It's now on line 8. Was changed so that it's not -- the idea here is to create a reasonable belief versus the language in the underlying bill, and I take it that was to address a concern that was raised in the -- by others as well. Is that correct? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. Yes. That's correct.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

I will -- I believe the amendment is an improvement on the bill, although since this is a strike all and the underlying bill seemed to have a fiscal impact, as I recollect, whereas the fiscal note associated with this bill says no fiscal impact, does the amendment have the effect of eliminating an earlier fiscal note? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox. Representative Fox?

REP. FOX (146th):

Yes. Through you, Mr. Speaker. I apologize for the delay, but we just signed off on the amendment this morning. It is correct that the current -- through this amendment as a strike all does have no fiscal impact according to OFA. With respect to the previous fiscal impact, I'm not certain as to why there was an impact on the underlying bill, but I do know -- I can represent that this does state no fiscal impact.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. The reason why I'm asking this question is, after some 21 years in the House, I had a recent conversation with the folks at OFA, and apparently when they do a strike all amendment fiscal note, they basically do not do the fiscal note comparing the amendment to the original bill, but rather treat the strike all amendment as a complete new bill, then writing a brand new fiscal note.

So -- and this is a little bit of a surprise to me, maybe to others in the Chamber as well, that the fiscal impact of an amendment in a strike all amendment is the total fiscal impact not just the fiscal impact of the amendment on the original bill or in comparison with the original bill. So -- and when one looks at the OFA note -- fiscal note that came with the file copy -- I don't see it up there, but 672 is the file copy that I was working from.

It seemed to indicate that there would be ongoing potential costs for incarceration and probation and other matters related to actually enforcing the law. So I assume that those things would still exist since there's still going to be a penalty under the amendment. So I'll ask that as a question. There



would continue to be the same penalties under the amendment as there was under the original bill. Is that correct? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. The Representative is correct in that in the fiscal impact in the underlying bill did reference the potential revenue gains in its judicial department with respect to what the fine and the potential costs would be if there was any incarceration involved with violators of this crime. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. And I -- and I -- this is probably as good a bill as any to have the discussion on. As we go along here, one of the things that I'm going to probably find confusing and perhaps ask more questions about is as we do strike alls and try to figure out what the fiscal impacts are going to be, that to bear in mind that OFA is -- apparently their official policy position is that when they do a

strike all amendment the strike all amendment is the total fiscal impact, not just in comparison to what the underlying file copy was, which is the normal if you're knocking out Section 6 of a bill or something like that. Then they only do the fiscal note as -- as the -- as it compares to the original bill.

So I'm -- I think the fiscal note may be a little -- if the original one was right, then the subsequent one is -- understates the fiscal impact or presumes that everyone's going to read about this law and no one's going to violate it which is not the assumption of the underlying bill.

One other question which I think I may save if the -- assuming that the amendment is adopted once that becomes bill, to ask that on the bill. Thank you, Mr. Speaker. I would urge adoption of the amendment. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Fox? No?

Remark further on House Amendment A? Remark further on House Amendment A? If not let my try your minds. All those in favor of the amendment please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

All those opposed nay.

The ayes have it. The amendment is adopted.

Remark further on the bill as amended? Remark further  
on the bill as amended?

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. I just wanted to ask a  
couple of questions. The practices that we are  
outlawing and now criminalizing with respect to the  
legal profession, are those already considered to be  
unethical practices? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. Yes. According to  
the rules of professional conduct of attorneys, those  
are unethical practices. What this will do, though,  
is also extend to the individuals who are actually  
serving as runners, as well, so they would also now be  
potentially punished pursuant to this bill. Through  
you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

And the reason I ask that question is to make clear that no attorney who is practicing in accordance with the rules of ethics, the Professional Responsibility Code for Attorneys in the state of Connecticut, would have to change the way they do business. Only those individuals who are already in violation would have a problem with this statute being adopted; people who are already doing something that's unethical and is considered improper behavior by an attorney.

I would ask the same question with respect to the medical profession. If this kind of activity that's now being prohibited here would be anything that is considered acceptable within the medical profession, so far as we know. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker. I'm not as familiar with the medical rules of ethical conduct as I am with the attorney rules. However, I -- I'm not certain on

that, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Well, certainly, I would hope that this is something that doctors, hospitals and other people working in the medical business -- profession would not consider to be an appropriate thing to do in terms of taking someone who's just been injured in an automobile accident and sort of steering them in the direction of an attorney or to bring a lawsuit or giving runners access to patients and that sort of thing.

So, Mr. Speaker, this is, I think, an effort on our part to crack down literally on ambulance chasing, which I think everyone has always understood to be an improper behavior pattern both for the attorneys as well as the people acting on their behalf, the so-called "runners". And I would urge adoption of the bill. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Care to remark further on the bill as mandated? Care to remark further on the bill as amended? If not, staff and

guests come to the well of the House. Members take their seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting by roll call. Members to the chamber, please.

SPEAKER DONOVAN:

Have all members voted? Have all members voted? Please check the vote call board and make your votes have been properly cast. If all the members have voted the machine will be locked and the Clerk will take a tally. The Clerk may announce the tally.

THE CLERK:

House Bill 6642, as amended by House A.

Total number voting 125

Necessary for Passage 63

Those voting Yea 125

Those voting Nay 0

Those absent and not voting 26

SPEAKER DONOVAN:

The bill as amended is passed.

Will the Clerk please call Calendar 575.

THE CLERK:

On page 18, Calendar 575 substitute for Senate

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
PART 16  
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**2009**

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tmj JUDICIARY COMMITTEE

March 20, 2009  
10:00 A.M.

SUSAN GIACALONE: Good afternoon, Senator McDonald, Representative Lawlor and members of the Judiciary Committee. For the record, my name's Susan Giacalone. I am here on behalf of the Insurance Association of Connecticut. I submitted numerous pieces of testimony on nine bills today. I'm going to try to keep my comments to just a couple bills.

SB 1030  
HB 6642

First, I'd like to address House Bill 6668, an Act Concerning the Resolution of Workers Comp Liens. Basically what this bill does is it really just pays the plaintiff's counsel. The statute that's being amended is set up there to protect the Workers Comp lien. If you look at, it's supposed to be paid before anything else. This actually would change that and say well, you have a workers comp claim, after we reduce the attorney's fee of one-third, then you take it to the claimant and you track down the claimant to get the remaining balance. A lien, a workers comp lien is no different from any other lien; medical lien, state lien for child support, a tax lien, there is nothing that they do that warrants an additional fee. And to use the example that they use, of \$6,000 to protect that lien. They said a windfall to the carrier, well, the carrier's already paid the money. It's not a windfall, they're not getting anything back in addition or beyond what they paid out. It's a windfall for the plaintiff's attorney because we're getting ARC in addition to the fees that we contracted with the plaintiff. This is unprecedented and for that reason we opposed and urge your rejection of it.

We also submitted testimony on three of the statutes of limitations bills that's on your agenda today and we will be submitting those

SB 1026  
HB 6577



again next week. The same opposition we've had every year in the past for extending statute of limitations. Statutes of limitation provide a finite time, not defending against stale claims, we just ask that those bills also are rejected. We are supporting an Act regarding apportionment, that simply tries to remedy a situation that was created and in a recent Supreme Court decision a year and a half ago that created a loophole for parties who an action has been withdrawn against, you can't apportion against them. The Supreme Court actually invited the legislature to take a look at that loophole they don't think you intended. We also support the bill regarding what we call capitalism runners, which deals with the -- eliminating fraud from the system, where you have people out there actually soliciting individuals for practitioners to (inaudible) their claims. (inaudible) three minutes.

SB 1030

HB 6642

SENATOR MCDONALD: Thanks very much, Susan. We appreciate it. Are there any questions? Thanks a lot. Jean Rexford, followed by Amy (inaudible). Is Amy (inaudible) here?

JEAN REXFORD: Good afternoon, Senator McDonald and Representative Lawlor and distinguished members of the Committee. It's been a long time since I've been in front of Judiciary. It's good to be back.

My name is Jean Rexford and I'm executive director of the Connecticut Center for Patient Safety. We are an educational and advocacy not-for-profit. I am here in strong support of Senate Bill 1091, an Act concerning Complaints Pending in the Department of Public Health. All of health care is unnecessarily complex and the process to review complaints

test for the pads. Other ones don't have that.

So I think the biggest changes have been things that help people maintain them better. Because you could place one on a wall and someone still needs to go over to it once a month and check the batteries and make sure it's working. A lot of them have developed things so that it has an audible alarm when the battery is starting to die. So I think there are more safety features and maintenance features that have been improved than just the guts of the device as far as how you or I would use one. Does that --

REP. FOX: Yes, so if an office building had an AED that's nine or ten years old, they still would be able, somebody who'd never been trained in it, they would still be able to pull it off the wall --

VICKI GRAHAM: Yes, they all have voice prompts that tell you exactly what to do.

REP. FOX: Okay. Okay. Thank you. Thank you, Mr. Chairman.

SENATOR MCDONALD: Thanks for your testimony. Next is Kathy Emmett, followed by Maureen (inaudible). It's good to see you, Attorney Emmett. It must be Stamford Day here at the Capital.

KATHY EMMETT: Well, we're glad to be here. Senator McDonald, members of the Committee. I am here, I am Kathy Emmett, current president of the Connecticut Trial Lawyers and I'm here to speak on behalf of two bills, raised bill 1099 concerning certain appeal procedures in workers compensation and raised bill 6642,

which has a title having to do with solicitation of clients, patients or customers, which I would refer to as the runners bill.

First with respect to raised bill 1099, Attorney Robert Carter has prepared written testimony which was submitted on behalf of this bill and I would respectfully refer you to that. It details the basis for this bill. But, essentially, the reason for it is that it is now difficult or impossible to appeal workers compensation decisions by the Compensation review Board in a lot of circumstances. And that has to do with the fact that workers compensation claims are almost never over. And this would allow for appeals, and I believe both of those who insure employers and workers comp cases and the actual claimants agree that this is a good idea. I did want to point out, I know, Senator McDonald, you asked before for the citation of the case that the Supreme Court raised the issue in and it is the Hummel versus Martin Transport case, and the cite if you are interested is 282 Conn 477. It's a 2007 case.

Now with respect to the runner's bill, this is the bill that we are -- both bills we're strongly in favor of -- but this bill, we have been instrumental in getting it to you because over the past couple of years the Connecticut Trial Lawyers members have noticed that there is an increasing use or practice of runners developing in this state. Runners are people who, for money paid to them by providers, like a chiropractor will go out and find people who have just been in accidents and bring them to a chiropractor for treatment. Connecticut law now does not prohibit this kind of conduct.

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And the intent of this bill is to fill that gap. It is, in fact, the case, as we lay it out in our written testimony, that individuals who have operated as runners in other states, in particular, -- one who is operating in New Jersey, came to Connecticut after he was convicted in New Jersey of bribing police officers to get accident reports for the purpose of identifying accident victims so he could then find and take to those chiropractors who he had a deal with to pay him for that -- he is now operating in the Bridgeport and Waterbury area, is our information.

Runners operate by going to the police station and getting all the previous days accident reports so they can identify who the victims of accidents are and then solicit them to take them for treatment. The purpose of that process is obviously, or perhaps not so obviously, but is in fact to get those victims to make claims against -- to make claims and then the chiropractor gets paid and the runner gets paid and the real focus is not the victim of the accident. In fact, sometimes people are taken who may not have medical problems and then, obviously, that would lead to fraudulent claims being made.

SENATOR MCDONALD: Thank you. Let me ask you a question. I haven't gotten really focused on this workers comp issue too much. But under this proposal, is existing law already -- says that any party agreed by that decision of the board, in a question of law, may appeal the decision to the Appellate Court, right? Why is that not sufficient? (inaudible) the Hummel case --

SB 1099

KATHY EMMETT: The problem is the Hummel case says

that, in effect, any decision on the question of law about what is an internal appeal, decision making body in the workers comp system would be like a judgment in the Superior Court, for example, which could then be appealed. I don't believe that it would create chaos on appealing multiple issues.

SENATOR MCDONALD: Well, it would be -- what I'm contemplating and not saying -- this is where my head is at -- but what I'm thinking is that it would be somewhat akin to land use appeals from the Superior Court. They're not appealable as of right and there's a petition for certification to appeal under section 81, I guess, to have that opportunity to appeal, which are fairly routinely granted unless they really do appear to be for delectory reasons. At least in my experience those are fairly routinely granted if there's any arguable issue that should be resolved by an Appellate Court. Maybe I'll ask Attorney Carter...

KATHY EMMETT: Well, my response is that I think everyone's concern on all sides of this is that there be an ability to appeal and so I think that goal would be accomplished by what you're proposing. I don't know how workable or whether it would be better or not. I'm not expressing an opinion on that.

SENATOR MCDONALD: This whole concept of runners, before this year I had never even heard of it. How prevalent -- you gave an example of somebody in Bridgeport, how prevalent is this situation?

KATHY EMMETT: It's actually quite prevalent and it's growing. It's a practice that attract people who are, essentially, taking advantage

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of low income, oftentimes, not English speaking, city dwelling people who don't have access to the normal channels to get to health care and find lawyers. And essentially snatching those people and putting them into the system for the purpose of the runner and whoever makes the deal with the runner, making money, not for the purpose of really taking good care of that person.

And we hear increasing numbers of stories from Bridgeport, Waterbury, now New Haven, Hartford, Stamford, it is a growing practice. In New Jersey it became a very big problem until they passed a statute, which is our proposal -- this bill is modeled on that statute. And they have pretty much solved the problem as a result of their runners statute.

We've heard recently for example, of an individual being in an emergency room, waiting for treatment, having been in an accident and having a runner come in and say, you know, I can get you quicker care, come with me, and then driving them off to a chiropractor without their having a proper diagnosis, evaluation in the emergency room, which is where they were seeking medical care, but they got snatched and taken away for the purpose of supporting this runner's business, I guess. It is a really large problem.

I think in New Jersey, it got to the point where there were increasing numbers of fraudulent claims being filed. There was organized crime involvement in the process. We have, by the way, reached across the gap and discussed this with insurance people, including representatives of Allstate. They are also in favor of doing, adopting some statutory fixture that will prevent this from

happening because it does tend to lead to fraudulent claims. We've worked with the Attorney General's office on this. And I understand that the Attorney General is in favor of passing this legislation because in trying to enforce the statutes we currently have on the books against this process, they found that unless they can show the actual payment of money by a lawyer, that our existing statutes don't prevent the process, don't prevent the practice. And it's a very constraining thing because, essentially, it deprives many people who are vulnerable of appropriate and good medical care and puts them into a system that is not designed to help them.

SENATOR MCDONALD: Well, thank you for those answers, I want to commend the CTLA for bringing it forward. Some people would be surprised about that initiative but I think it's a great initiative. It's one that shows that the professionals in the CTLA are policing themselves and the whole abuse of fraudulent claims and fraudulent lawsuits in the system. So you are to be commended. Representative Fox.

REP. FOX: Thank you, Mr. Chairman and thank you, Attorney Emmett, for your testimony. It's good to see you up here. I have a question on this idea of runners as well. I'm looking at the penalty that's provided. It says it would be imprisonment up to one year and/or a fine of \$5,000, up to \$5,000. Just so I'm clear, the people that would potentially fall under that are the runners themselves, as well as, a health care provider or an attorney who hires this person to perform this service? I've heard of it in other states. I've heard examples of this and it's pretty egregious.

I haven't heard so many in our state but it is something that we want to make sure does not begin so I, too, commend you for bringing this forward.

SENATOR MCDONALD: Anything further? If not, thanks very much. Actually, the next speaker withdrew so is Brian Quigley here. Mr. Quigley and followed by Houston Putnam-Lowry.

BRIAN QUIGLEY: Thank you, Senator McDonald and members of the Committee. My name is Brian Quigley. I'm the regional director for America's Health Insurance Plans and I'm here on behalf of the Connecticut Association of Health Plans, testifying in opposition to Senate Bill 1004, Cooperative Health Care Arrangements and Standards in Contracts.

I'm not an antitrust expert but I've been an attorney in the health insurance business for 32 years and I've had ample opportunity to read FDC and DOJ opinions on the issue. I also worked on the Texas and New Jersey legislation and the following regulations from the Attorney Generals. And I hope I can, if not conquer, as Christine said, at least, educate you on some of the misstatements that were made earlier.

What this bill calls for are anti-trust exemption for what otherwise would be per se violations of the federal and state anti trust laws, that is, price fixing and collusion. And because of that, the standard that's set - - someone asked earlier about the state action doctrine, the standard that's set is so high that the states who have enacted laws -- and Texas was the first in 1999, there have only been three since then -- two since then, I should say. And in the case of both Texas and



**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
PART 17  
5266 - 5611**

**2009**



**TESTIMONY OF  
CONNECTICUT HOSPITAL ASSOCIATION  
SUBMITTED TO THE  
JUDICIARY COMMITTEE  
Friday, March 20, 2009**

**HB 6642, An Act Concerning Solicitation Of Clients, Patients Or Customers**

The Connecticut Hospital Association (CHA) appreciates the opportunity to submit testimony concerning **HB 6642, An Act Concerning Solicitation Of Clients, Patients Or Customers**. CHA opposes this bill as written.

Although CHA supports the intent of this bill, as written, HB 6642 would have the unintended effect of prohibiting community meetings and the general dissemination of valuable information about available healthcare services. The unintended and detrimental consequences of HB 6642 could be eliminated if Subsection (a)(3) of HB 6642 were revised as follows (added text is underlined):

(3) "Runner" means a person who, for a pecuniary benefit, procures or attempts to procure a client, patient or customer at the direction of, request of or in cooperation with a provider whose purpose is to seek to obtain benefits under a contract of insurance or assert a claim against an insured or an insurance carrier for providing services to the client, patient or customer, or to obtain benefits under or assert a claim against a state or federal health care benefits program or prescription drug assistance program, except that "runner" does not include (1) a person who procures or attempts to procure clients, patients or customers for a provider through public media; or (2) a person who refers clients, patients or customers to a provider as otherwise authorized by law; or (3) a person who facilitates, presents or speaks at a meeting, program or seminar that is open to the public and at which information about a health care provider's services are discussed; or (4) a person who is a bona fide employee of a provider who responds to an inquiry or request for information initiated by a prospective client, patient or customer.

Thank you for your consideration of our position.

For additional information, contact CHA Government Relations at (203) 294-7310.

***Insurance Association of Connecticut***

***Judiciary Committee***

March 20, 2009

HB 6642, An Act Concerning Solicitation Of Clients, Patients Or Customers

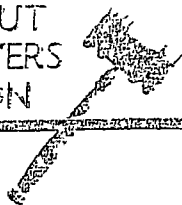
The Insurance Association of Connecticut, IAC, supports the concept embodied in HB 6642, An Act Concerning Solicitation of Clients, Patients or Customers, which is trying to reduce fraudulent and inflated claims from the system.

HB 6642 would prohibit professionals, from health professionals to lawyers, from utilizing individuals that identify potential clients/patients from accident reports. Such individuals are employed solely to review police reports on a daily basis. These individuals then contact the people named in accident reports attempting to steer them to a certain professional to pursue a claim based upon the events contained in the accident report. This practice is a form of ambulance chasing and any effort to reduce such practices is supported by the industry. However, HB 6642 creates unnecessary loopholes that would permit the unscrupulous practitioner ways to get around the provisions of this act, if adopted. For example, why is the prohibited practice limited to 40 days following the event? Does the act some how become less unethical after 40 days? Solicitation is solicitation and any direct solicitation, regardless if it is 1 day or 41 days following an event, should be prohibited. Additionally, HB 6642 only addresses the situation of the individual who is hired directly by the provider and then contacts a potential client/patient yet does nothing about the straw

transaction. As long as the person whom the provider hires does not actually contact the targeted client/patient then the act is not within the prohibited practices of HB 6642. The hired individual could use media to contact the individual or hire another person, keeping the transaction at arms length, so as to avoid the "knowingly" standard.

The IAC supports the concept behind HB 6642 but feels the language should be better refined to close up any potential loopholes.

CONNECTICUT  
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Raised Bill 6642  
Public Hearing, 3-20-09

TO: MEMBERS OF THE JUDICIARY COMMITTEE  
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)  
DATE: MARCH 20, 2009

**RE:** SUPPORT OF RAISED BILL 6642 – AN ACT CONCERNING THE SOLICITATION  
OF CLIENTS, PATIENTS OR CUSTOMERS

Members of CTLA report that in the last two years increasing numbers of citizens in our larger towns and cities have been contacted following a motor vehicle accident by persons who are working as “runners.” Runners operate by soliciting accident victims to seek treatment from specific chiropractors who, in turn, pay the runners for producing accident victims who can become patients and make insurance claims. Runners have no previous relationship with the persons they contact. Runners may contact accident victims by mail or phone within a few days of the accident. Or, runners may even go to accident victims’ homes to solicit them.

Runners learn of motor vehicle accidents in one of two ways. First, as has been confirmed with the Bridgeport and Waterbury Police Departments, the runners will appear on a daily basis at the police department to purchase copies of all of the previous day’s motor vehicle accident reports. The reports contain the names, addresses and dates of birth of those involved in the accident. Using this information, runners immediately contact those identified in the report.

In addition, it is apparent that runners are using police scanners to respond to accident scenes. There are multiple reports of runners appearing at the scene of an accident -- in some cases runners are arriving at accident scenes even before the police. The runner who arrives at the scene of an accident will take photographs of the vehicles involved in the accident which are then made available for purchase. In addition, the runner will direct the people involved in the accident to a particular health care provider for treatment. It has been reported that in some cases the people involved in the accident were under the impression that the runner at the scene of the accident worked for the police department.

Finally, there has even been a report of a runner making contact with an accident victim as he waited for treatment in a Bridgeport hospital emergency room. The runner advised the patient that the runner could get him in to see a doctor quicker than would be possible if he continued to wait in the emergency room. Instead of allowing the accident victim to wait for diagnosis and treatment from a doctor in the hospital, the runner took him from the hospital and drove the accident victim to a chiropractor’s office.

Runners can be very persistent. Citizens have reported receiving multiple contacts by mail, phone and in person at the doors of their homes during all hours of the day and night. Recently two complaints of “stalking” were filed with the Bridgeport Police Department by persons who had been involved in an accident and were being relentlessly pursued by a runner. The runners offer accident victims quick

access to medical treatment without the necessity of having health insurance. Runners will even go so far as to drive accident victims to the chiropractors' offices when they do not have their own transportation.

Once at the chiropractor's office the patient is put in contact with a lawyer with whom the doctor "does business" so that the lawyer can pursue an insurance claim on behalf of the accident victim for his or her injuries. The lawyer is a necessary part of this process as it is the lawyer who will see to it that the bill for the chiropractor's treatment is paid from the proceeds of any claim which is filed by the lawyer.

The potential for abuse is enormous. First, runners prey disproportionately on specific populations: poor, minority and city dwelling. Those affected do not have health insurance, often lack facility with the English language and generally have only limited access to transportation. Although legitimately injured, these accident victims are pulled into a scheme that is designed to make money for the participants who solicit the victims but not to provide good medical care or legal representation for the injured victims. A second concern is that while everyone contacted by a runner has been involved in an accident, not everyone has been injured. However, runners approach all accident victims – whether injured or not – and tell them that they can receive free medical care and be set up with a lawyer to pursue a claim on their behalf. The promise of money to be made is at least implicit. Such a system will inevitably lead to the pursuit of fraudulent claims by persons who are not hurt. The filing of fraudulent claims, in turn, hurts both those who have valid claims which are made suspect by the existence of such invalid claims and the consumers who are forced to pay higher insurance rates.

New Jersey has confronted the problem of runners. According to the New Jersey Attorney General's office, runners were a significant problem there within the last ten years. One New Jersey runner was particularly notorious. That individual was convicted in 1999 for attempting to bribe police officials to provide him with information about accidents before the information was made available to the public. As a result of his and other runners' activities in the state, New Jersey passed legislation like the legislation that is proposed here to ban the use of runners. According to the New Jersey Attorney General's office, their anti-runner legislation is an effective tool for law enforcement to bar the practice.

We have been told by the New Jersey Attorney General's office, as well as by citizens of Bridgeport, that the runner from New Jersey who was convicted of bribing police officials moved to Connecticut and is now running cases for chiropractors in Bridgeport and Waterbury. The New Jersey Attorney General's office made the observation to CTLA that because Connecticut does not have "anti-runners" legislation on the books, it is an attractive business environment for this runner. Before it passed legislation to bar runners, New Jersey saw an increase in fraudulent insurance claims as well as the involvement of organized crime in the scheme.

The Connecticut Trial Lawyers Association opposes the use of runners and is extremely concerned about the increasing presence of runners in this state. The CTLA has reached across the table to members of the insurance industry to oppose the practice. We sat down with the fraud unit of one of the largest insurers in Connecticut. We met with Attorney General Blumenthal and his office to share our information. We reached out to chiropractors and their trade group to join in our opposition to this practice. We strongly believe that something must be done to stop the use of runners in this state to protect our citizens.

**WE RESPECTFULLY URGE YOU TO SUPPORT RAISED BILL 6642. Thank you.**