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TESTIMONY OF

Connecticut Chapter of the American College of Surgeons Professional Association, Inc.

SUBMITTED TO THE JOINT COMMITTEE ON JUDICIARY

Friday, March 4, 2022

HB 5235: AN ACT CONCERNING THE CALCULATION OF PREJUDGMENT INTEREST ON A PLAINTIFF'S OFFER OF COMPROMISE.

Thank you for this opportunity to provide input on HB 5235 An Act Concerning the Calculation of Prejudgment Interest on a Plaintiff's Offer of Compromise.

On behalf of the members of the Connecticut Chapter of the American College of Surgeons, we express our opposition to HB 5235.

House Bill 5235 will potentially increase the final award for a malpractice action by tens or hundreds of thousands of dollars by allowing interest to accrue between the date cause of an injury and the time of judgment. Prejudgment interest statutes are punitive in nature and are meant to harm defendants instead of simply making the plaintiff whole again.

Additionally, severing prejudgment interest from a plaintiff's offer of a compromise settlement does not create an additional incentive for settling a case earlier. Rather, it disincentives the use of compromise offers instead waiting on a potentially larger payout from the compounding interest.

Delays during civil litigation frequently occur due to numerous reasons outside of a defendant's control. The clock starts on the date the defendant learns about the injury, not when the case is filed. In medical malpractice cases, it could be two years or more before a case is filed. This has been further exacerbated COVID-19, which has dramatically slowed civil proceedings.



Further, this bill calls for the addition of 8% annual interest “between the amount so recovered and the sum certain specified in the counterclaim plaintiff’s offer of compromise.” With the prime rate of interest currently at 3.25% and most banks paying less than 0.50% on deposits, this is a punitive rate of interest designed solely to harm a defendant versus making a plaintiff whole.

Connecticut physicians pay some of the highest medical malpractice premium rates in the country and ranks in the bottom of states for retaining physicians. Having state of the art health care institutions will do nothing to keep newly trained or even well-established surgeons staying in the state if the cost to practice is unsustainable when other opportunities exist across the country. The COVID-19 pandemic has stressed the physician workforce. There is no legitimate reason to change the law as proposed by HB 5235 to make it more difficult to practice in Connecticut.

We believe that severing prejudgment interest from the offer of a compromise is intended to maximize the amount of award payments, not to expedite the fair settlement of claims.

Therefore, we ask that you oppose HB 5235.