



To: House Committee on Health & Human Services  
From: Care New England  
Date: March 11, 2025  
Subject: ***Opposition to House Bills H5908, H5903/H5912, and H5910***

Dear Chairman Craven and Honorable Committee Members:

Care New England (CNE) Health System is a trusted, integrated health care organization that fuels the latest advances in medical research, attracts the nation's top specialty-trained doctors, hones renowned services and innovative programs, and engages in the important discussions people need to have about their health. CNE is helping to transform the future of health care, providing a leading voice in the ongoing effort to ensure the health of the individuals and communities we serve. With over 8,000 employees throughout Rhode Island, we are the fourth largest employer and second largest health system in the Ocean State.

### **Healthcare in Rhode Island is at risk.**

With mounting expenses and diminishing reimbursement rates, the economics of medicine are a daily challenge. We are facing historic staffing shortages, as more and more medical professionals leave their professions completely due to stress, burnout, and job dissatisfaction, or leave Rhode Island to do their same jobs in a more welcoming and economically favorable environment in our neighbor states.

One of the many factors complicating the mounting healthcare crisis in Rhode Island is the very real risk of extremely unfavorable professional liability outcomes. The risk of professional liability is not theoretical. It is a real risk to our colleagues in healthcare. Your doctors. Your nurses. Your neighbors. These people – valued members of our communities – undertook the training and education necessary to help others in need. To cure disease. To support patients and their families through the most difficult moments many of us face in our lives. And to save lives, under difficult circumstances, day after day.

Instead of valuing their contributions and fostering an environment where professionals want to build their careers, their homes, and their families, the legislation that is proposed today would make a bad outcome an event that could cost these valued members of our communities their home, their retirement savings, and their children's college funds.

Everyone makes mistakes. Unfortunately, when mistakes happen in medicine, lawsuits tend to follow. This is a reality that we acknowledge. However, the playing field must be fair. The laws that are proposed today seek to further distort the playing field here in Rhode Island so that doctors, nurses, and hospitals cannot defend themselves in court, even when no mistake has been made. This legislation that we write to oppose does not protect consumers or help injured people. It endangers healthcare and serves only to escalate the already exorbitant cost to the healthcare system of litigation in Rhode Island.



The shortage of Rhode Island healthcare workers is at an all-time high. Combining the low reimbursement rates for care provided in Rhode Island with the inflated risk of a catastrophic malpractice claims, little ability to mount a defense, and the real exposure of a physician's personal assets furthers the inevitability that doctors, nurses, and hospitals will not be available the next time you or your family member is sick. This legislature should recall that it intervened in 1976 to stabilize the healthcare system and ensure access to vital services for Rhode Islanders. We are facing similar conditions today, but instead of helping secure the future of medicine in Rhode Island, these bills further antagonize an already strained industry.

Each bill discussed below erodes the ability of healthcare providers in Rhode Island to provide the essential services needed by every member of our community:

1. **H 5908** –This bill would make punitive damages available by statute in all civil actions. It lowers the common law standard for an award of punitive damages from wrongful conduct that was malicious or intentional to a far lesser standard of “conduct the actor knew or should have known was dangerous or was done heedlessly and recklessly and without regard to consequences or the rights and safety of others.” This far lower standard is closer to a simple negligence standard than it is to the traditional standard for the award of punitive damages, which our Supreme Court has stated is considered an extraordinary sanction disfavored in the law.

Punitive damages are uninsurable under Rhode Island law, which means that individual doctors, nurses, and other clinicians are at great personal risk for conduct that could ordinarily occur in the daily performance of their professional duties. The lower standard also gives unprecedented leverage to plaintiffs' lawyers to extort settlement from professional liability insurers without regard for the quality of the healthcare provided – without regard for whether a mistake actually was made – because the risk of an uninsured loss to an individual is too great to risk at trial.

This is patently unfair and makes a rare and historically disfavored remedy a *de facto* threat in all litigation.

2. **H 5903 / H 5912** –These two bills together would repeal the abrogation of the collateral source rule in medical malpractice cases to allow plaintiffs to recover the billed amounts of their medical services rather than amounts they or their insurance company actually paid for their medical expenses.

R.I. Gen. Laws § 9-19-34.1, commonly known as the abrogation of the collateral source rule in medical malpractice cases, dates back to the 1976 Medical Malpractice Reform Act (the “Reform Act”). The Reform Act was revised in 1986 when further remedial legislation was necessary because the Medical Malpractice Joint Underwriting Association, which was created by the Reform Act to step into the professional liability market after commercial insurers fled this hostile jurisdiction, was on the brink of insolvency due to continued high professional liability claims activity.

Prior to the Reform Act, defendants could not reduce their liability by introducing evidence of payments made to injured parties by independent sources like health insurance, workers' compensation, disability insurance, or like benefits. R.I. Gen. Laws § 9-19-34.1 made these



collateral benefits received by a plaintiff admissible in medical malpractice actions to assist in the overall stabilization of the professional liability market – and thus, healthcare as a whole. The effect of the current form of this law is that defendants in medical malpractice cases may argue that plaintiffs should recover only those expenses that they truly incurred rather than the amount that was billed and later reduced by insurers. This reflects the actual economic reality of the injury.

If this law is repealed, and defendants – doctors and nurses – in medical malpractice cases are precluded from introducing such evidence, plaintiffs could present evidence of any amount they are billed without affording an accused doctor or nurse the opportunity to challenge the reasonableness of the expense and the actually incurred economic loss.

This is an unquestionable windfall to plaintiffs at the expense of the already struggling healthcare industry and will undo the stabilization efforts made by this legislature in past sessions.

3. **H 5910** – This bill would make the longstanding common law doctrine of assumption of the risk, which is a complete defense to liability, a factor in considering a plaintiff's comparative negligence. In Rhode Island, the doctrine of assumption of the risk always has been a complete bar to liability because its application requires that the injured party knew of the existence of the risk, appreciated its unreasonable character, and nevertheless engaged in the conduct resulting in his or her injury. To remove this as a defense is a significant change to longstanding common law and is a significant erosion of the few complete defenses available under Rhode Island law.

Please show your support for Rhode Island healthcare workers by opposing these bills, which hurt healthcare and hurt Rhode Island.

We are appreciative of the opportunity to provide testimony and if you have any questions, please feel free to reach out to me at [RDulski@CareNE.org](mailto:RDulski@CareNE.org). Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Dulski".

Robert Dulski  
Director, Government Affairs  
Care New England