

TESTIMONY OF

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SUBMITTED TO THE JUDICIARY COMMITTEE

Friday, March 4, 2011

**HB 6487, An Act Concerning Certificates Of Merit**

Danbury Hospital appreciates the opportunity to submit testimony concerning our opposition to HB 6487, An Act Concerning Certificates Of Merit.

Under Connecticut law, tort cases that involve technical or scientific fields require expert testimony. For medical liability cases, Connecticut has developed a statutory framework to ensure that the experts used are sufficiently qualified. As part of this system, Connecticut law also contains a requirement that a party, or the party's lawyer, perform and certify a pre-suit analysis to ensure that the claim is filed in good faith. This process is documented by a "good faith certificate," along with a brief written explanation of the expert's review stating that the expert believes that there appears to be evidence of medical negligence. Failure to include a good faith certificate with a complaint makes the claim subject to possible dismissal.

- This bill would weaken the good faith certificate process.
- This bill would expose hospitals to frivolous lawsuits and further burden hospitals with high costs associated with unjustified lawsuits.
- The bill would dramatically expand the types of professionals permitted to give pre-suit expert opinion to include any person who might be deemed an expert at the time of trial, not experts who, as similar healthcare providers, necessarily have the same specialty or training as the defendant.
- This bill would replace a well reasoned and balanced system with one that, instead, depends on the plaintiff's attorneys subjective assessment of who is a qualified expert.
- This bill could alter the rules of trial evidence, limit the right of cross examination of expert witnesses, and remove defense arguments, evidence, and motions directed at the plaintiff's case if the plaintiff changes his theory, allegations, or expert opinion.

Evidence of the financial burden on hospitals and other health care providers in having to defend against frivolous lawsuits is detailed in the Connecticut Insurance Department's "Connecticut Medical Malpractice Annual Report," published in May of 2010. The report notes that, over the last four years, more than 50% of malpractice claims resulted in no payment to the claimant, yet insurance companies and self-insured entities, such as hospitals, paid more than \$45,058,773 in legal expenses to defend against these meritless claims. The Insurance Department's report is consistent with Danbury Hospital's experience with respect to the expenditure of significant legal expenses to defend claims without merit. In the current economic climate, hospitals cannot afford to spend thousands of dollars defending inadequately investigated lawsuits. I urge you to oppose HB 6487. Thank you for your consideration of our position.