



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

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STATEMENT

PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)

H.B. No. 6487 – AN ACT CONCERNING CERTIFICATES OF MERIT

JUDICIARY COMMITTEE

March 4, 2011

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to comment on H.B. 6487, which would amend Connecticut's Good Faith statute by removing certain essential Certificate of Merit requirements for medical malpractice cases. Our comments are provided on behalf of the member companies of PCI, a national property casualty trade association with over 1,000 member companies. PCI members represent 37 percent of the total property/casualty insurance market and 39 in the nation. PCI member companies provide 41 percent of Connecticut's property/casualty insurance coverage.

PCI opposes this legislation because it would weaken the provisions of Public Act 05-275 which was enacted in 2005 to reduce the filing of non-meritorious medical malpractice claims. Public Act 05-275 has been effective in reducing non-meritorious medical malpractice litigation in Connecticut and the substantial costs and burdens associated with the filing of such litigation and this bill would represent a step backward in this regard.

This bill would remove the current requirement that the claimant provide a written and signed opinion of a similar health care provider which "includes a detailed basis for the formation of such opinion" and, instead, would only require an opinion that "states one or more specific breaches of the prevailing professional standard." PCI opposes this change because, under these provisions, the claimant would only need to provide a list of unsupported breaches rather than providing a detailed explanation of the malpractice allegations. Additionally, under current law, if this opinion is not filed, the lack of filing "shall" constitute grounds for dismissal of the action. This bill would make this dismissal permissive by changing the "shall" to "may" and further provides that no action will be dismissed for such failure unless the plaintiff fails to remedy the failure after being ordered to by the court. This change would greatly reduce the effectiveness of requiring the timely filing of these opinions in reducing non-meritorious claims because the failure to do so may not result in dismissal.

PCI also has great concerns about provisions in this bill which would greatly expand the definition of "similar health care provider" to include health care providers who "possess sufficient training, experience and knowledge as a result of practice or teaching in a related field of medicine, so as to provide expert testimony as to the prevailing professional standard of care in a given field of medicine." Current law requires "similar health care providers" to be trained, experienced, and certified in the relevant specialty. We believe that the current requirements are necessary to ensure that the required opinion is rendered by a health care provider with sufficient training and

experience so as to be legitimate and meaningful and that the amendments proposed by this legislation in this regard would greatly reduce the value of these opinions in ensuring that only meritorious medical malpractice claims go forward.

For all of the foregoing reasons, PCI urges your Committee not to favorably advance HB 6487.

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