

**WRITTEN TESTIMONY OF THE HOSPITAL OF CENTRAL CONNECTICUT
SUBMITTED TO THE JUDICIARY COMMITTEE REGARDING HB 6487,
AN ACT CONCERNING CERTIFICATES OF MERIT**

The Hospital of Central Connecticut opposes the passage of **HB 6487** because it will undo the benefits created by Public Act 05-275, "An Act Concerning Medical Malpractice," that was passed as part of Tort Reform measures in 2005. Public Act 05-275 amended General Statutes § 52-190a, known as the "Good Faith statute" to mandate that before a medical malpractice action can be filed, the plaintiff or plaintiff's counsel must: (1) obtain a *written opinion* from an expert; and (2) obtain the written opinion from an expert who is a "similar health care provider" to the defendants; and (3) obtain an opinion that provides a "detailed basis for the formation" of the expert's opinion that there "appears to be evidence of medical negligence." These are very modest requirements. If a plaintiff fails to abide by these modest requirements and files a lawsuit that does not comply with the Good Faith statute, then the lawsuit must be dismissed.

Even though dismissal is required, the Connecticut Supreme Court recently confirmed that dismissal is "without prejudice," so that a plaintiff can re-file the action simply by complying with the Good Faith statute. (Bennett v. New Milford Hosp., Inc., 300 Conn. 1 (2011)). Therefore, a plaintiff who has a meritorious case will *never* be prevented from having his or her day in court so long as (s)he makes a preliminary showing that the case indeed is meritorious.

HB 6487 eliminates the pre-screening requirements of the Good Faith statute, and so makes it much easier for lawsuits that have no merit to be filed against hospitals and other health care providers. Evidence of the financial burden on hospitals and other health care providers that results from having to defend these non-meritorious actions is

detailed in the Connecticut Insurance Department's "Connecticut Medical Malpractice Annual Report," published in May of 2010. In particular, the report notes that over the last four years, more than 50% of malpractice claims resulted in *no payment* to the claimant, yet required payment of approximately \$45,000 each in legal expenses by self-insured entities and insurers simply to defend these matters. These statistics are consistent with the experience at our hospital. Moreover, the expenses referenced above do not include the time and resources spent by our employees assisting in the defense of these cases rather than providing health care to our patients.

In these challenging economic times, our hospital, together with other hospitals and health care providers, cannot easily bear the burden of more expenses. Clearly, the resources of The Hospital of Central Connecticut and its employees are better devoted to providing excellent patient care -- not defending inadequately screened lawsuits.

Respectfully submitted,



Clarence J. Silvia
President and Chief Executive Officer