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March 25, 2011

Senator Eric Coleman  
Representative Gerald Fox  
Members of the Joint Committee on Judiciary  
Legislative Office Building  
Hartford, CT 06106

I am writing as President of the Connecticut Orthopaedic Society and on behalf of the 230 orthopaedic surgeons in Connecticut who deliver on-call, orthopaedic emergency care in acute care settings to urge the Committee to support H.B. 6622, AAC The Burden of Proof in Medical Malpractice Cases and the Standard of Care Related to Emergency Medical Care and Treatment.

The medical liability crisis represents one of the largest single threats to the availability of on-call specialists for emergency care. When an orthopaedist takes ER call, they are exposed to an excess risk of litigation. While efforts to address this crisis at the federal level are being debated, a number of states have enacted meaningful liability reforms in recent years to address the need for special liability protection for providers of emergency care.

Emergency physicians and on-call specialists work in a unique environment with specific challenges and are required to care for all patients who present in an ER setting. Many of the patients are uninsured and rely on the ER as a safety net for their care, one that is being eroded due to the current lack of liability reform. Our Society supports the initiative of the Connecticut College of Emergency Physicians to protect access to emergency care by implementing liability reform for providers in this setting. Our State liability laws should encourage, not inhibit physicians from providing vital on-call services and by enacting H.B. 6622, the Connecticut legislature would begin to address the medical liability hurdle to care.

Furthermore, our Society would like to reiterate previous written testimony concerning certificate of merits, HB 6487, submitted by Michael Marks, MD, past president of the Society, which has bearing on this debate. Integral to providing liability reform for EMTALA providers, is to fortify the important thresholds that must be met in order to move forward with a medical liability complaint, specifically ensuring that the qualifications of an "expert" and continue to mandate that a case could only proceed if a person of like training and specialty testify for the plaintiff is paramount to a fair and equitable system for all parties.

Thank you for allowing me to give written testimony on this critical issue. If I can be of further assistance, please contact me at 203-737-1616 or email [brian.g.smith@yale.edu](mailto:brian.g.smith@yale.edu).

Sincerely,

Brian G. Smith, MD  
President, CT Orthopaedic Society  
Director of Pediatric Orthopaedics- Yale New Haven Children's Hospital