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Testimony of the Connecticut Society of Eye Physicians  
and the American Academy of Ophthalmology  
Given by Andrew J. Packer, M.D.  
Before the Judiciary Committee

On April 1, 2013

OPPOSING

H.B. 6687 An Act Concerning Certificates of Merit  
and S.B.1154 An Act Concerning the Accidental Failure of Suit Statute

Good afternoon Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. My name is Andrew Packer and I am a practicing Retina specialist in Hartford. I am here as a representative of the Connecticut Society of Eye Physicians, representing over 300 CT ophthalmologists, and the American Academy of Ophthalmology, representing over 30,000 ophthalmologists in opposition to HB 6687 An Act Concerning Certificates of Merit and SB 1154 An Act Concerning the Accidental Failure of Suit Statute.

As our population ages and we anticipate an influx of patients from the Affordable Care Act, we face serious challenges to the manpower needs of our physician force. Will Connecticut have an adequate supply of physicians to meet the pressing needs of patients in our state?

One of the major challenges for attracting high quality physicians is the oppressive malpractice environment we face. Connecticut consistently ranks amongst the worst states in our nation. The one positive piece of legislation, the "compromise of 2005", has offered a modicum of fairness to the practicing physician and the perpetual concern of frivolous lawsuits. The Certificate of Merit requires that a plaintiff's attorney obtain the endorsement of a "similar" physician, one of the same specialty who is equipped to fairly and competently evaluate the legitimacy of the claim. It is totally inappropriate and unfair to change this law allowing a non-similar physician to opine on the merit of the claim. Furthermore, as the "experts" name is withheld, the qualifications of this "non-similar" physician cannot even be determined, let alone challenged!

This law, if enacted, would change the way many of our physicians practice medicine. It would strongly discourage physicians from taking on the more complex cases, trauma cases, and complications of chronic disease that afflict our neediest patients, particularly those cases with a higher risk of poor outcomes regardless of the quality of care given. In addition, the costs of defensive medicine would skyrocket.

What could make matters even worse? How about SB 1154, taking a very generous statute regarding accidental failure of suit and moving to the realm of preposterous by specifically allowing cases to be refiled despite an attorney's "gross negligence" or "egregious behavior"?

In closing, I feel that it is my professional duty to my patients and my colleagues and my civil responsibility to the citizens of Connecticut to testify and hopefully shed some light on some of the unintended consequences these bills would create if passed. I am convinced that it is in no one's best interest to further stress the health care delivery system and prevent those who are the neediest from receiving the care they deserve.

I thank you for your consideration.