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TESTIMONY IN OPPOSITION TO BILL 6687 AND 1154
JUDICIARY COMMITTEE PUBLIC HEARING APRIL 1, 2013

Members of the Committee

I am a lawyer whose practice is substantially devoted to the representation of physicians. I am a co-author of Connecticut Medical Malpractice - a book devoted to the subject of medical malpractice litigation in Connecticut. On behalf of myself and the physicians we represent, I urge the Committee to reject the bills relating to the certificate of merit and accidental failure of suit.

I have three short comments: one philosophical and two technical.

Remember first the enormous contributions that doctors make to society. They deserve the benefit of the doubt on policy disputes. When you are confronted with competing partisan arguments about legal technicalities that are so complex that they seem to defy explanation, your default position should not always be to favor the plaintiffs who are suing rather than the doctors who are being sued. The doctors who keep us well are harmed by the epidemic of lawsuits they are facing and it is not necessarily in society's interest to make it easier and easier to sue.

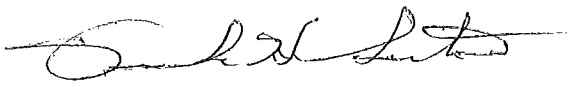
The certificate of merit bill sounds good in theory but is unworkable in practice. Opinion writers are always going to assert that they are "qualified". Without any hearing opportunity to challenge such self-serving assertions, any lawsuit can be launched on little more than the *ipse dixit* of the author. The certificate of merit process would be reduced to an empty formality.

In considering the Accidental failure of suit bill, you should be aware that the Supreme Court has already held in the Plante case that suits dismissed under the certificate of merit process can easily be re-filed except when the plaintiff is culpable of egregious conduct. By making such filing automatic, all you are doing is giving a gift of a one year extension on the statute of limitations to a very limited class of the least deserving people.

I hope these comments are useful. I appreciate the opportunity to provide this testimony.

Sincerely,

DANAHERLAGNESE, PC



Frank H. Santoro