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TESTIMONY OF CONNECTICUT STATE SOCIETY OF ANESTHESIOLOGISTS
SUBMITTED TO THE JUDICIARY COMMITTEE
Keith J Ruskin, MD, President
Monday, April 1, 2013

H.B. 6687, An Act Concerning Certificates Of Merit

The Connecticut State Society of Anesthesiologists appreciates the opportunity to submit testimony concerning H.B. 6687, An Act Concerning Certificates Of Merit. As President of CSSA, I represent over 500 anesthesiologists and anesthesiology residents who work in the State of Connecticut. CSSA strongly opposes this bill.

If passed, H.B. 6687 will significantly weaken the good faith certification process that Connecticut law requires before filing a medical practice lawsuit. By changing the requirement from a "similar" healthcare provider to a "qualified" healthcare provider, this bill would allow anyone who might testify as an expert at trial to certify that a malpractice suit is brought in good faith. Eliminating the requirement for an expert to practice the same specialty as the defendant will significantly increase the number of ill-founded malpractice lawsuits.

The requirement for a similar healthcare provider is especially critical because the practice of medicine has become highly specialized. In many cases, only physicians who practice in the same specialty or subspecialty have the necessary training, experience, and judgment to offer a sound opinion as to whether a physician breached the standard of care. As a practicing anesthesiologist, I am concerned that this bill would allow a healthcare provider with little or no understanding of my specialty to make a determination as to whether I have committed malpractice.

The problems with this bill are not limited to the diminished requirements for the expert who provides the certificate of merit. The medical profession is also concerned that this bill changes only one portion of the comprehensive reform of 2005 without a complete review of the entire medical malpractice system. At a time when many medical societies have created processes to sanction physicians who provide expert testimony in bad faith, this bill allows the "expert" who provided the certificate of merit to remain anonymous. This makes it impossible for a defendant to challenge the expert's qualifications before the case goes to trial and prevents medical societies from disciplining physicians who provide untruthful or misleading evidence.

Increasing the number of frivolous malpractice suits will have many negative effects on the practice of medicine in the state of Connecticut. If passed, this bill will make physicians fearful of unfounded lawsuits and reluctant to care for patients with challenging or complex medical problems. Increasing the risk of a lawsuit will encourage physicians to practice "defensive medicine," ultimately increasing healthcare costs. The overall quality of healthcare in Connecticut will be impacted because the cost of defending frivolous cases must be paid for with limited

resources that would otherwise be used to improve the safety and quality of patient care.

The reforms implemented in 2005, which require a meaningful inquiry *before* a lawsuit is filed, should not be dismantled. We urge you to oppose H.B. 6687. Thank you for your consideration.