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Testimony Before the Judiciary Committee
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H.B. No. 6687(RAISED) AN ACT CONCERNING CERTIFICATE OF MERIT

Good Afternoon Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. My name is Daniel Briceland; I am an ophthalmologist practicing in Phoenix, Arizona. I am submitting this testimony on behalf of the American Academy of Ophthalmology, its worldwide membership of over 32,000 medical and osteopathic eye physicians and surgeons and approximately 300 Connecticut members. I wish to express our firm opposition to H.B. N. 6687 (Raised). On behalf of the Academy, I respectfully ask that you oppose this measure.

First, I would like to compliment Connecticut state policy makers for taking the initiative a few years ago by enacting a fair malpractice statute that has provided a stable environment from which to practice medicine and a fair avenue for patients to seek legal relief if required. The Connecticut Legislature's action has very much had a positive impact on the delivery of patient care.

A major component of this statute that has brought stability and fairness to physicians targeted in any malpractice suit has been the provision regarding the "Certificate of Merit." This provision ensures that the expert witness brought forward must have the appropriate knowledge that can be used to evaluate the intricacies of a medical practice or procedure. In other words, if an ophthalmologist was brought forward in such a suite, the court would reply upon the testimony of an ophthalmologist to describe the procedure and comment on the practice patterns that should have been followed to ensure the great opportunity for a positive patient outcome. It makes sense from not only the defense standpoint but also from the plaintiff's attorney standpoint. It is a peer review process that is well recognized in

the medical field.

H.B. 6687 if enacted would rip apart this time tested review process much to the detriment of physicians seeking to perform to the highest quality of care standards and also to patients who believe the procedure in question did not meet their expectations or believe for whatever reason they were harmed in some manner. What better system than to have a witness who is an expert in the field to question and comment about exactly what happened or should have happened? It is a very fair process. H.B. 6687 negatively upsets this balance to the detriment of the Connecticut citizens.

Specifically, with regards to ophthalmology, H.B. 6687 would have an adverse impact on the delivery of medical and surgical eye care to the citizens of the "Constitution State." The proposed legislation negatively impacts ophthalmologists seeking to perform to the highest standards of patient safety as well as to individuals who might be seeking restitution from a perceived or real harm. For example, the enactment of H.B. 6687 could create situations in cases involving ophthalmology where individuals with no specialty training in ophthalmology, could provide expert witness testimony in this highly technical area of medicine and surgery.

In the delivery of eye care, there are multiple eye health care providers – all important but all with different skill sets. Under H.B. 6687 an "expert witnesses" might include non-physicians, such as an ocularist, an optician, or an optometrist. All these professionals are valued members of the eye care team. But none have the skill set of an eye surgeon, who has the education and surgical training to readily understand the intricacies of the procedures being discussed and debated with regards to one of the most delicate organs of the body – the eye.

Today, you are examining whether the current requirement for a "Certificate of Merit" is fair both to the physicians providing medical care and for patients seeking legal relief if required. Who benefits from the "Certificate of Merit" expert witness provision? – both the individual who may feel harmed and the ophthalmologist whose actions are being questioned. It is a win, win outcome for all.

Finally, the Academy believes that the proposed changes to existing law would likely increase marginal lawsuits. We all understand that non-meritorious lawsuits are the bane of the judicial system and have no place in an efficient, equitable, and fair judicial system. They delay justice for those who are truly injured and deserve restitution, and raise the cost of administering the system, as well as health care in general. I think we can all agree that non-meritorious lawsuits certainly should not be encouraged.

I very much appreciate the time you have taken to reflect upon some of the concerns I have raised in testimony today with regards to H.B. 6687. As I have highlighted, H.B. 6687 would eliminate the requirement that an expert witness be of a similar field of the physician being sued for malpractice much to the detriment of the individual bringing forth the suit and the physician whose actions are being questioned. This legislation if enacted would have a negative impact in future years on the delivery of patient care in Connecticut as well as patients seeking legal relief.

Again, thank you for your time in considering my remarks and I urge you to strongly oppose H.B. 6687.