



Testimony in Opposition to House Bill 6687 An Act Concerning Certificates of Merit
Judiciary Committee
April 1, 2013

Senator Coleman, Representative Fox and members of the Judiciary Committee, my name is Dr. John Foley and I am President of the Connecticut State Medical Society (CSMS). On behalf of the more than 8,500 physicians and physicians in training of the Connecticut State Medical Society (CSMS) and the Connecticut Chapters of the American College of Surgeons and the American College of Physicians, I urge you to oppose **House Bill 6687 An Act Concerning the Certificate of Merit**.

As you have already heard from my physician colleagues and several legal professionals, there is little doubt that passage of House Bill 6687 will worsen the medical practice climate in Connecticut. In a state where we struggle to attract and keep physicians, weakening an already frail malpractice system will serve only to drive our best and brightest physicians out of Connecticut to states where liability protections are greater and such protections are reflected in lower malpractice premiums.

Unresolved malpractice claims drain physician time and resources away from patients, not to mention the judicial resources expended. In this day and age, malpractice suits against physicians are all too common. Coupled with the extreme cost of medical liability insurance, the fear of a lawsuit hangs over physicians like a cloud – and it never goes away.

With that information as background, let me tell you a bit about my practice. I am a practicing cardiologist in Norwich, Connecticut. I specialize in heart-related services for patients who have gone through or will be going through a heart transplant – a unique cardiology focus. If I were to be sued, under the current Certificate of Merit statute, only another board certified cardiologist could sign a Certificate of Merit in such a suit against me. I am confident, under the current law, that another board certified cardiologist would be the reviewer of my medical skills. If House Bill 6687 passes, this minimal protection will be thrown out the window. My skill in practicing cardiac medicine would have the potential to be judged, for example, by a different medical subspecialist, such as an oncologist, with little or no knowledge of cardiology. Even without the knowledge of specific cardiac care standards, HB 6687 would allow that physician to say that I had breached those standards. Let me ask you – if you or a family member suffered from severe cardiac disease, would you seek treatment from a generalist, or would you want to be treated by a cardiac specialist with years of experience? Patients deserve to have specialized medical care. In the case of a malpractice suit, physicians deserve to have the care they provide be judged by someone with the SAME understanding and training.

The current Certificate of Merit statute serves as a barrier to non-meritorious lawsuits against physicians. It serves only to help eliminate meritless lawsuits and nothing more. Any weakening of this statute would allow meritless lawsuits in the door and further damage the Connecticut's liability climate. Quite simply, physicians cannot handle any additional weakening of the liability system in Connecticut. Weakening the Certificate of Merit statute will be yet ANOTHER straw that drives physicians out of Connecticut. It WILL leave patients with fewer choices in care, and

it WILL impact patient access to care. Some Physicians WILL leave this state to practice in other states where there are stronger protections against frivolous liability claims and lower malpractice premiums as a result. Younger physicians will have no reason to stay here and build a practice after they complete their training – and young physicians are the future of Connecticut's health care.

At a time when the goal is to insure and care for more patients that are currently without healthcare and also control costs, HB 6687 is the absolute wrong approach. We know the certificate of merit is working. Patients, doctors, insurance companies, hospitals, the business community, and many within the legal committee oppose this bill. So, those with a vested interest in eviscerating physician protections and making it easier to file lawsuits, stand alone. The purpose of the law should be about finding the truth and standing for fairness. The physicians of Connecticut ask you to stand for fairness and truth. We ask that you stand with your doctors and hospitals for fairness. We ask that you stand with patients who are your constituents to oppose HB 6687 and House Bill 1154.

Access to quality care is at stake. The health of your communities, your constituents and your own families and friends is at stake. Please oppose House Bill 6678