

McCall, Brandon

From: Michael.Carius@Norwalkhealth.org
Sent: Wednesday, April 03, 2013 3:12 PM
To: Jud Testimony
Subject: TESTIMONY FOR THE JUDICIARY COMMITTEE REGARDING HB 6687, AN ACT CONCERNING CERTIFICATES OF MERIT

To the Judiciary Committee:

I am opposed to HB 6687, AN ACT CONCERNING CERTIFICATES OF MERIT, and I urge you to recommend that it not be adopted.

By way of introduction, I am an Emergency Physician and Chairman of the Emergency Department at Norwalk Hospital. I have practiced Emergency Medicine in Connecticut for 30 years. I am residency trained in Emergency Medicine and board-certified in Emergency Medicine.

The essence of HB 6687 is to lessen the current requirement of procuring a good faith certificate from a similarly trained physician, attesting to the merit or the validity of a plaintiff complaint and requested action in a medical malpractice case. The effect of this change would be that more medical malpractice cases would go forward without merit, many of them frivolous. Please understand that there is a real cost in this process.

As a practicing Emergency Physician, I can tell you that we in Connecticut are suffering from a shortage of physicians of all specialties. This dilution in the requirement to obtain a good faith certificate of merit will most certainly serve as a barrier to recruiting new physicians to this state and an encouragement for those who are practicing to leave their practices by retiring or moving. Instead, we should be doing everything we can as a state to encourage more physicians to come to Connecticut and to remain in practice, thus preserving and in fact enhancing access to medical care. We sorely need more good physicians, not fewer, especially during a time in which we are actively expanding the eligibility base for medical insurance without expanding the physician resources to care for this expansion.

Furthermore, as a practicing Emergency Physician, I can tell you that unfortunately there are occasional bad outcomes to medical care rendered in the Emergency Department and elsewhere. This is generally not due to malfeasance or malpractice on the part of the Emergency Physician. But the allegation of medical malpractice, regardless of its merit or validity, has a predictable devastating effect on the Physician, emotionally and professionally. Oftentimes this results in the Physician leaving his or her practice or changing his or her practice pattern to order more unnecessary tests or treatments, which is known as "defensive medicine" and results in higher healthcare costs for all. By reducing the standard for procuring a good faith certificate, the result will be more medical malpractice lawsuits and more emotional and professional distress and more unnecessary medical tests and treatments and higher costs. It would seem that no one wins in such an environment.

I can tell you from personal experience that I have been sued for malpractice once during my career (in 1985) and that it was a frivolous case that never could have been filed with our current certificate of merit requirements, because no Emergency Physician would have ever signed it.

Nonetheless, I suffered the anguish of going through depositions and time away from my practice and my family, before it was finally dropped by the plaintiff. But there was a very real cost, to me, to my practice, and to my family.

I believe that we as physicians should be held to a standard of care and I support that standard. But that standard should be created and reinforced by physicians of similar training and background, not "just anybody." In the end, we all want good care for all of our patients and we all want to preserve access to care.

I urge you to reject HB 6687.

I thank you for your attention.

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