



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. Michael M. Krinsky. I am the past president of the Connecticut State Medical Society. 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, thank you for the opportunity to present this testimony to you in opposition to **House Bill 6687 An Act Concerning the Certificate of Merit**.

I am a neurologist practicing in the greater Hartford area. My patients struggle with some of the most complicated and challenging medical conditions, including Alzheimer's disease, Parkinson's disease, and epilepsy. These are cases where the art and science of medicine work hand-in-hand, as you use your clinical judgment to find the right medical solutions for each patient, which often works for just a short period of time, before the condition progresses and you have to find a new solution.

Last session I came before this committee to testify in opposition to similar language in Senate Bill 243. It is unfortunate that even while the bill did not pass the General Assembly, I need to emphasize several points again.

Mine is a high-risk specialty, and Connecticut patients already struggle with access to care. In 2008, CSMS conducted the first workforce survey of its kind in our state and some of the results were startling: 19% of physicians were contemplating a career change because of Connecticut's practice environment. New patients trying to see a neurologist were experiencing the longest wait times of all the specialties we surveyed: 29 days, with established patients waiting 18 days for an appointment. It's no wonder half of the neurologists surveyed had increased their work hours. More than 1 in 4 of my colleagues had reduced the number of high-risk services they provided or high-risk patients they saw – and that was five years ago. There aren't enough of us to go around today.

This year, it is important to point out a peer reviewed, scientific study published in January 13 in *Health Affairs*, which identifies that the average physicians will spend 50.7 months- or almost 11 percent- of an assumed forty year career with an unresolved, open malpractice claim. However, a highly specialized physician such as a neurosurgeon will spend between 25 and 30 percent of his/her career with an open malpractice claim. This situation redirects physician focus, time, and resources away from patient care in an already difficult environment.

Passing House Bill 6687 will only worsen this environment. House Bill 6687 significantly lowers the threshold of expertise for a certificate of merit. In my specialty, I will spend hours

looking at detailed images of the brain before deciding on a course of treatment. It's one thing if a colleague with equivalent training in the same area has a different opinion; it's another if the physician does not work in my area of expertise. Would you want to be second-guessed by someone who did not have the same training or expertise? In my case, it's all on the line: reputation, good standing, and let's not forget dollars. I could lose everything if I make a mistake. But if a judge is going to rely on another physician's opinion of my work, that judge ought to rely on someone with the same education, training, and standards of care that I have. In this case, it takes more than an MD to make the difference. If the patient needed a specialist – the judge should have one, too.

I remain perplexed that the certificate of merit provision in Public Act 05-275 is held up as a key part of a compromise. In compromises, each side gives up something. Yet we are here again being asked to give up everything.

If the “good faith certificate” system did not work, I would expect to see a lopsided system where plaintiffs lost more cases than they won. That is not the case, according to the Connecticut Insurance Department (CID). Yet again in its 2012 legislatively mandated Medical Liability report, CID numbers continue to show that nearly fifty percent of cases that go to trial result in verdicts for the plaintiff. .

If you pass House Bill 6687, an already exhausted physician workforce will start retiring much faster than it is replaced. In neurology, it takes an average of almost two years to replace a neurologist. Faced with the mounting financial pressures of running a small business, the overhead involved in expensive new medical-record technology systems, and the constant uncertainty of payment under the Medicare system, more of my colleagues will simply hang up their stethoscopes and stop practicing medicine altogether. You and your family, your friends and your neighbors will notice that it takes a lot longer to see a doctor. Or you'll have to drive farther to get to one. As wait times increase, more patients will turn to our hospital emergency departments for more expensive care.

None of it is a pretty picture at a time when those of us in the health-care industry are focused on finding ways to reduce cost and increase patient access to care. But actions have consequences. If you pass House Bill 6687 there will be consequences. On behalf of Connecticut patients and physicians, I urge you to oppose it.