Connecticut State Urology Society
Testimony on Senate Bill 1154 An Act Concerning Accidental Failure of Suit Statute
And House Bill 6687 An Concerning Certificates of Merit

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Senator Coleman, Representative Fox and members of the Judiciary Committee, my name is Dr. Arthur Tarantino. I am a Board Certified Urologist practicing in Hartford, Ct. and President Elect of the Ct. State Urology Society. On behalf of our greater than 100 members, representing 95% of the practicing Urologists in the State, thank you for the opportunity to present this testimony to you in STRONG opposition to both Senate Bill 1154 An Act Concerning Accidental Failure of Suit Statute and HB 6687 An Act Concerning Certificates of Merit.

Regarding the SB 1154, I will defer to our legal experts to tackle the details of this proposed legislation. My simplified assessment is that contrary to what the State Supreme Court decided in Plante v Charlotte Hungerford Hospital, this bill would allow for the "gross negligence" or "egregious misconduct" of Plaintiff's Attorneys during a malpractice action. As a state, do we want to allow Attorneys who represent our Citizens to practice in that manner or should they be held to a higher professional standard?

HB 6687 An Act Regarding the Certificates of Merit would turn back the clock on the important medical liability compromise of 2005. It calls for changing the expert witness from a "similar healthcare provider" to a "qualified healthcare provider" and eliminates the detail for any significant detail as to why the case should move forward. In 2005, the Medical Liability climate in Connecticut was in crisis mode. Insurance rates were skyrocketing (liability insurance grew to the third highest budget line item in my previous surgical practice only to follow Staffing expenses and rent), Physicians were leaving the State or at least changing their practice patterns so as to avoid high risk cases.

Since 2005, with the passing of Certificate of Merit Legislation, there has at least been liability insurance rate stabilization in the Ct market but there is significant room for improvement.

1. In 2012, the Medical Liability Monitor annual survey of liability insurance costs ranked Ct. in the top five states for costs for Internists and Ob/Gyns at $34,700 and $170,000 respectively.
2. In 2006, the National Practitioner Databank listed Ct. as having the third highest indemnity payments in the country at $500,000. From 2006-2009 the average was $621,000.
3. The Medical Group Management Association, a trade association for single specialty medical and surgical practices, annual Physician Practice Management survey regularly places Ct. as one of the worst three states in the country to practice Medicine using metrics of Liability Insurance costs and climate, cost of living and tax structure.

Office based Physicians in Ct., besides providing healthcare, account for more than 61,000 jobs and contribute more than $6 Billion to the State's Gross Domestic Product.
Both of these pieces of Legislation will have a direct negative impact on Physician's ability to practice in the state.

1. Undoubtedly, insurance rates and practice costs will rise making it more difficult to maintain viable practices.
2. Smaller community hospitals in the state are already having difficulties filling their Emergency Room on call panels with Medical and Surgical subspecialists and this will only get worse.
3. Unlike other states in the country that are actively addressing their Medical Liability legislation in an effort to maintain their Physician supply, we will continue to experience barriers to recruitment across a variety of Medical and Surgical subspecialties.
4. Defensive medicine is real and expensive. A recent survey of eight subspecialties by the Mass. Medical Society estimated that $1.4 Billion in medical costs could be attributed to the practice of defensive medicine, $1.1 Billion related to hospitalizations and $300 Million to advanced imaging and consultations. That's $215 per Ma. State residents or @ $752,500,000 if extrapolated to Ct.

We firmly believe that every patient who feels that they have been harmed during the course of their medical treatment should have access to qualified legal assistance. To the best of our knowledge, the current Certificate of Merit Legislation has not been a barrier to this assistance. In fact, the Bennet case that has been presented before this Committee in the past is moving forward in accordance with the COM laws with a court date this July.

In 2005, this legislative body comprehensively reviewed the medical liability system in Ct. The current Certificate of Merit legislation was a product of that review and has provided stability to the liability insurance market and a sigh of relief to healthcare providers. In our current economic climate, with practice costs continuing to increase, an aging Physician workforce and the potential of thousands of newly insured citizens under the Affordable Care Act we do not need to introduce new legislation that will hinder our ability to provide this needed Medical care.

Please oppose SB 1154 and HB 6687