Statement in Opposition to

Senate Bill 243 - An Act Concerning Certificates of Merit

Judiciary Committee

March 7, 2012

The Connecticut Academy of Family Physicians submits this statement in strong opposition to Senate Bill 243 - An Act Concerning Certificates of Merit. We have come before this Committee many times over the past several years to advocate for medical malpractice reform and today we submit this statement to urge you not to weaken one of the few protections that physicians have left.

The bill before you attempts to erode the certificate of merit system in place in medical malpractice case. Certificates of merit are meant to deter frivolous and weak claims and reduce unnecessary lawsuits by requiring that that an attorney or claimant cannot file a medical malpractice lawsuit or apportionment complaint unless he or she has made a reasonable inquiry under the circumstances to determine that grounds exist for a good faith belief that the claimant received negligent medical care or treatment. The complaint must contain a certificate of merit which is a written, signed opinion from a "similar health care provider".

The requirement of a "similar health care provider" is an important one but this bill seeks to weaken that. Different medical specialties have different prevailing professional standards of care and practices. It would be incredibly unreasonable to think that a psychiatrist would be able to comment on a possible breach by an oncologist. While both have completed medical school

and residency, they then complete specific training in their specialty. While one treats mental illness another treats cancer. It is unreasonable to think that a psychiatrist would be up-to-date on the latest medical advances in oncology nor would an oncologist be the best to comment on the type of care a psychiatrist should provide. But this bill supposes just that. By not requiring that the health care provider be one who is similar, the door swings open to all sorts of frivolous lawsuits as those who are making the decisions on the merits of the case will not be familiar with the actual standard of care that may or may not have been breached.

The medical malpractice system is already broken and the court system is already overburden yet the proponents of the bill before you are attempting to weaken one of the safeguards put in place to guard against frivolous lawsuits. We hope that this Committee will recognize how unwise this bill is.

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