



**TESTIMONY OF  
CONNECTICUT HOSPITAL ASSOCIATION  
SUBMITTED TO THE  
JUDICIARY COMMITTEE  
Wednesday, March 24, 2010**

**HB 5537, An Act Concerning Certificates Of Merit**

The Connecticut Hospital Association (CHA) appreciates the opportunity to submit testimony concerning **HB 5537, An Act Concerning Certificates Of Merit**. CHA opposes this bill.

Under Connecticut law, tort cases that involve technical or scientific fields require expert testimony. For medical liability cases, Connecticut has developed a statutory framework to ensure that the experts used are sufficiently qualified. As part of this system, Connecticut law also contains a requirement that a party, or the party's lawyer, perform and certify a pre-suit analysis to ensure that the claim is filed in good faith. This pre-suit process is documented by a "good faith certificate," along with a brief written explanation of the expert's review stating that the expert believes that there appears to be evidence of medical negligence. Failure to include a good faith certificate with a complaint makes the claim subject to possible dismissal.

This bill seeks to significantly water down the good faith certificate process. Instead of facing possible dismissal – a penalty that essentially assures compliance – the bill would require those caught in non-compliance to submit the certificate within 30 days after filing. A pre-suit obligation that can be performed after the suit is filed is meaningless, and appears to make the process discretionary.

Additionally, the bill seeks to alter the rules of trial evidence, limit the right of cross-examination of expert witnesses, and remove defense arguments, evidence, and motions directed at the plaintiff's case if the plaintiff changes his theory, allegations, or expert opinion. These changes would be a stunning departure from current practice and will result in an unlevel playing field for litigants.

Due process, evidentiary rights, and essential elements of trial such as cross-examination, cannot be stacked in favor of one side only, or the civil justice system risks being thrown out of balance. We urge you to oppose bill 5537.

Thank you for your consideration of our position.

For additional information, contact CHA Government Relations at (203) 294-7310.