



American Tort Reform Association

1101 Connecticut Avenue, NW • Suite 400 • Washington, DC 20036-4351
(202) 682-1163 • Fax (202) 682-1022 • www.atra.org

March 5, 2012

The Honorable Eric D. Coleman
The Honorable Gerald M. Fox
Co-Chairmen
Joint Judiciary Committee
Room 2500, Legislative Office Building
Hartford, CT 06106

Dear Chairman Coleman and Chairman Fox:

I am writing on behalf of the American Tort Reform Association (ATRA) to express our opposition to Senate Bill 243. ATRA, founded in 1986, is a broad-based bipartisan coalition of more than 300 businesses, corporations, municipalities, associations, and professional firms that have pooled their resources to promote reform of the civil justice system with the goal of ensuring fairness, balance, and predictability in civil litigation.

Enactment of Senate Bill 243 would significantly weaken the good faith certificate process in Connecticut. By eliminating the requirement for a "detailed" pre-suit opinion letter and making dismissal for failure to provide a good faith certificate discretionary and providing an opportunity to cure, we believe the bill would increase the chances of doctors having to defend themselves against meritless and frivolous claims. Senate Bill 243 would dramatically expand the universe of professionals permitted to give pre-suit expert opinion by allowing any medical expert to provide such an opinion, regardless of whether the expert was a "similar healthcare provider," as required by current Connecticut law.

This proposal would roll back the significant progress made in 2005, when the General Assembly made important changes to the good faith certificate process. According to legislative history, the proposal is intended to ensure that the plaintiff has a reasonable basis for filing a medical malpractice case, thus reducing the number of frivolous and meritless cases filed in Connecticut courts. The goal of the 2005 reform was to reduce ongoing problems "caused by plaintiffs misrepresenting or misunderstanding physicians' opinions as to the merits of their action." In 2011, the Connecticut Supreme Court upheld this statutory design in the case of *Bennett v. New Milford Hospital*. The court afforded appropriate deference to legislators' comments and other testimony found in the legislative record.

Senate Bill 243 would replace a well-reasoned and balanced system with one that would instead depend on the plaintiff's attorney's subjective assessment of who is a qualified expert. ATRA strongly urges you to oppose Senate Bill 243 and reaffirm the reforms you embraced in 2005.

Sincerely,



Sherman Joyce
President

Cc: The Honorable Paul R. Doyle
The Honorable John A. Kissel
The Honorable Al Adinolfi
The Honorable David A. Baram

The Honorable Gary A. Holder-Winfield
The Honorable John W. Hetherington
The Honorable James M. Albis
The Honorable Jeffrey J. Berger

The Honorable Beth Bye
The Honorable Charles D. Clemons
The Honorable Mae M. Flexer
The Honorable Terry B. Gerratana
The Honorable Edwin A. Gomes
The Honorable Auden Grogins
The Honorable DebraLee Hovey
The Honorable David K. Labriola
The Honorable Michael A. McLachlan
The Honorable Bruce V. Morris
The Honorable Arthur J. O'Neill
The Honorable Andrew W. Roraback
The Honorable Robert C. Sampson
The Honorable John Shaban
The Honorable Richard A. Smith
The Honorable William Tong
The Honorable Jason C. Welch

The Honorable Chirstie M. Carpino
The Honorable Patricia A. Dillon
The Honorable Mary G. Fritz
The Honorable Bob Godfrey
The Honorable Minnie Gonzalex
The Honorable Ernest Hewett
The Honorable Themis Klarides
The Honorable Rick Lopes
The Honorable Edward Meyer
The Honorable Melissa M. Olson-Riley
The Honorable Kelvin Roldan
The Honorable T.R. Rowe
The honorable Joseph C. Serra
The Honorable Bill Simanski
The Honorable Joseph J. Taborsak
The Honorable Toni E. Walker
The Honorable Elissa T. Wright