

# MedChi

*The Maryland State Medical Society*

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TO: The Honorable Joseph F. Vallario, Jr., Chair  
Members, House Judiciary Committee  
The Honorable Kathleen M. Dumais

FROM: Joseph A. Schwartz, III  
Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman

DATE: March 11, 2015

RE: **OPPOSE** – House Bill 470 - *Health Care Malpractice - Certificates and Reports of Qualified Experts*

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The Maryland State Medical Society (MedChi), which represents more than 8,000 Maryland physicians and their patients, opposes House Bill 470.

House Bill 470 would change the current law so that a defendant in a medical malpractice case could not contest the legal sufficiency of the certificate of a qualified expert on his or her report unless an objection was filed within 30 days after the Certificate of the report (page 3, line 9-12). As a practical matter this means that a doctor will lose his or her opportunity to challenge the legal sufficiency of a medical malpractice case because there is not practical way that a challenge can mounted within this 30 day window.

Since 1986, Maryland has required the filing of an expert's certificate of report as part of the initiation of a medical malpractice case. That qualified expert for plaintiff must attest that the departure from the medical standards of care was the proximate cause of the alleged injury. Plaintiff's certificate is normally filed with the lawsuit and the law requires it to be filed within 90 days from the date of the complaint (page 1, line 22). The current law also provides the following: "Discovery is available as to the basis of the certificate" (page 22, line 24). In the real world of medical malpractice litigation, the discovery process is both extensive and time consuming, and challenges to expert certificates are made **after** the completion of discovery. House Bill 470 would effectively end that practice since there can be no reasonable expectation that discovery on an expert's certificate could be completed within 30 days after service of the certificate.

The certificate requirement is an essential requirement of Maryland's malpractice law. The lawyers who are involved in medical malpractice – both on the plaintiff side and the defense side –

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are conversant with the special requirements of medical malpractice cases and are extremely competent in these matters. Medical malpractice plaintiffs' lawyers know the rules and they know that an expert's certificate and report must be substantial and that the expert must be qualified. For example, no expert in a medical malpractice case may spend more than 20% of his or her time in professional testimony. There is no reason to insulate an expert's certificate from being appropriately questioned just because the questions do not come in the first 30 days.

MedChi knows of no compelling reason for the initiation of House Bill 470 and respectfully requests an unfavorable report.

**For more information call:**

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