



# Colorado Medical Society

*"Advocating excellence in the profession of medicine"*

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## Testimony to the House Judiciary Committee in Opposition of HB 1344

By W. Ben Vernon, MD, President – Colorado Medical Society

Good afternoon, Madam Chair and members of the committee. My name is Ben Vernon, MD, and I am here today representing the Colorado Medical Society and our nearly 7,000 physician members statewide. On their behalf, I respectfully request your "no" vote on House Bill 1344.

Dr. Presken has just given us vivid real-world examples of the very serious potential consequences of this legislation. Her experience illustrates precisely why the Colorado Medical Society is so concerned about this bill. You will hear from other physicians today about how it will affect their patients: pregnant women, the elderly and residents of rural Colorado, among others.

Let me emphasize that I and my colleagues feel the deepest possible empathy for the patients you have heard from today. Even one medical error is too many. Physicians go into medicine because we want to help people get better – and when something goes wrong and a patient is injured, there is nothing more dreadful. And we want to do what we can to rectify that injury.

We also want to do what we can to prevent injuries from occurring in the future. And one of our primary concerns about our current medical litigation system is that it **works against** efforts to minimize errors and improve patient safety. The culture of "shame and blame" associated with tort litigation inhibits our ability to freely examine medical errors in order to understand why they occurred in the first place. It makes it harder to retool our systems to keep those errors from occurring again. It increases the likelihood of more terrible injuries like those you have heard about today.

If we are going to reform our broken health care system, we must minimize the potential for harm. Governor Ritter acknowledged that in a March 31 Executive Order. He said: "Improving quality is a central part of our health reform agenda. **A key part of improving quality is improving patient safety.**"

Colorado's physicians agree – and believe unshakably that our current medical litigation system hampers efforts to improve patient safety.

Unfortunately, our counterparts at the Colorado Trial Lawyers Association just don't get it. Indeed, in a February 2009 memo to CMS, CTLA stated: "CTLA rejects in its entirety the proposition that conditions under which injured patients can pursue litigation is a healthcare policy issue."

That statement exemplifies the broad and deep policy gulf separating our organizations. It is one we have tried to bridge over the last 11 months. The fact that we are here today shows you that we have not been successful in that effort.

I am joined here by CMS legal counsel Kari Hershey, who will present ideas for making the current litigation system work better for patients. We have offered to discuss these with CTLA while we work toward the ultimate goal of making Colorado a leader in transforming health care delivery – in part, by crafting new approaches to patient safety and provider accountability. This bill will not help us achieve that goal.

**I respectfully request your "NO" vote on HB 1344.**