Chairman Wagoner, Ranking Member Kearney and members of the Senate Civil Justice Committee,

Thank you for taking the time to hear testimony today in support of Senate Bill 129. My name is Gary Katz and I am President of the Ohio Chapter of the American College of Emergency Physicians, representing over 1,200 ER doctors, who treat the 6 Million ER patients each and every year in Ohio. I have been practicing Emergency Medicine for over 10 years, with 7 of those on faculty at The Ohio State University. Currently, I am the Medical Director of Emergency Services at Union County Memorial Hospital in Marysville, and am employed by Premier Healthcare Services, an ER staffing organization, as their Director of Patient Satisfaction and Quality, so I am well aware of the troubles that face our patients each and every day.

I stand before you to ask for your support in favor of the Access to Emergency Care and Disasters Act. Simply stated, this bill comes to you because of the distinct environment in which ER docs practice; one that is substantially different from the routine and historic office based practice of a primary or specialist physician.

As you can imagine, the ER must always be on the ready for the high acuity care patient and requires immediate access to a host of resources. Add to this, the requirements of EMTALA: Emergency Medical Treatment and Active Labor Act, which is the Federal mandate that requires hospitals with emergency services to provide a mechanism for completing a medical screening exam and appropriate stabilizing care to anyone who presents and requests to be seen, and one can get the sense of the uniqueness of our practice environment. Contrary to non-EMTALA mandated care, we don't get to pick our patients, we can't turn away those who are non-compliant, and we don't get the luxury of time to "get to know the patient;" in fact, researchers have found that an ER doctor gets just 7 seconds to establish credibility with the patient.

Further, failure to comply with EMTALA, the physician even as the agent of the hospital, faces substantial risk to personal assets. The requirements of EMTALA do not end with the emergency physician. It is equally applicable to those who provide on-call services.

As such, in the course of supporting the Emergency Department, our on call resources are also faced with the lack of choice and may end up treating non-compliant, high risk patients who they have never previously met.

In fact, the only choice most on-call providers have is whether or not to take call in the first place. If they choose the latter, this negatively impacts you, your community, and the resources I can provide to successfully treat an ER patient. In fact, in 2006 the Institute of Medicine noted that the nation's healthcare safety net, Emergency Medicine, is straining to the breaking point.

I will say this repeatedly: this problem is not anecdotal and the solution is based on evidence

In 2004, The Robert Wood Johnson Foundation, a national leader in healthcare quality research, funded a study examining the scope of the on-call problem and its impact on patient care. They found the following:

- When asking medical directors about the adequacy of specialty on-call coverage, 66% responded that coverage was inadequate. In the region for Ohio, this response was found to be 59%
- The myth that this is just a rural hospital problem is just that, a myth. 57% of rural hospitals reported on-call availability problems while 71% of urban hospitals made similar reports
- When asked about the impact this on-call crisis has on patients, the medical directors reported the following top consequences:
    - Risk or harm to patients who need specialty care 27%
    - Delay in patient care 21%
    - More transfers of patients between emergency departments 18%

While there is even more data from this study that we could review in support of SB 129, it should be noted that the conclusion of the authors was clear, the factors that drive this problem: funding, insurance coverage, and liability reform must be addressed.

Further, in 2009 the American College of Emergency Physicians gave our state less than stellar grades, particularly in the area of on-call availability, which was cited as having a particularly high impact in hindering access to emergency care. It is this lack of access to quality and timely emergency care that Senate Bill 129, Access to Emergency and Disaster Care, is designed to correct.

Our solution is data driven. It has already been proven effective in states that have implemented these standards.

You will hear from opponents that this law will increase the tax burden on society; they cite that those who fall between negligent and reckless disregard will have no choice but to be put on the public dole. However, such an argument is myopic. A report in the Wall Street Journal of a Harvard University study demonstrates that U.S. society pays $50 Billion dollars a year in defensive medicine costs. This is non-value added testing: Whether through increased insurance or other fees, this amounts to a tax on us all. Currently, the delays in care stemming from lack of specialty on-call assistance creates an environment ripe for sub-optimal outcomes: Decreased function and an inability to participate in the work-force from the late treatment of debilitating time-sensitive diseases such as stroke or heart-attack is a tax we are already paying. Add to this the direct cost of transporting patients when they can't be treated near their homes and the funds flow burdens the local community even more.

You will hear from the opposition that ER docs only faced 20 closed cases with indemnity in 2009 for a total of $4.7 Million dollars and that this bill amounts to a solution without a problem. However, what they won't tell you, and the part where this bill will help is in reducing the number needless cases brought in the first place.
At 106 cases, the Allocated Loss Adjustment Expense (ALAE) exceeded $3.7 Million for 2009 alone: Considering the amount we pay in sub-optimal outcomes from poor emergency care access, this bill is the right solution for a real problem.

You will hear from the opponents that this will invite bad doctors to the state and lower the quality of care. This spurious argument is fear without merit. Evidence from the Centers of Medicare and Medicaid Services demonstrate that states which have enacted legislation similar to SB 129 still deliver the highest standard of care on independently measured quality metrics.

Further, in order to practice, the doctors still need a license in Ohio and the Ohio State Medical Board is still tasked with approving new applications and policing established physicians for abnormal practice patterns and, so, this mitigates the risk claimed by the opposition.

This bill expands access to the highest quality of emergency care. The Access to Emergency and Disaster Care Act closely parallels language of successful legislation in Texas, Georgia, and Florida. Landmark similar reforms in Texas in 2003 created, by 2008, a record influx of physicians to the Texas Medical Board and are credited for increased access to all levels of care and specialty care services. In February 2009, the Texas College of Emergency Physicians and the Texas Medical Board reported that 76 Texas counties reported gains in emergency physicians—39 of those counties previously underserved in terms of emergency medicine. Yes, this legislation can bring high quality emergency care to your community.

Finally, a 2009 study by the Florida State University Center for Economic Forecasting and Analysis determined that each physician's office contributes 19 jobs and over $900,000 to the local economy. Similar benefits are sure to be seen in Ohio. By reducing unreasonable barriers we can bring more quality physicians to Ohio and most importantly, provide excellent access to quality emergency care.

As I stated before, this measure is data driven, based upon what has proven safe and effective in other states.

Recognizing the unique demands of Emergency Medicine and aiding patient care by reducing the barriers for physicians to take call is proven to improve access to quality emergency care.

I thank you for your time and welcome any questions.