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TO: The Honorable Shane E. Pendergrass, Chair
Members, House Health and Government Operations Committee
The Honorable Samuel I. Rosenberg

FROM: J. Steven Wise
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DATE: February 18, 2020

RE: **OPPOSE** – House Bill 448 – *Health Care Practitioners – Telehealth*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **opposes** House Bill 448.

In August of 2019, the Board of Physicians finalized adoption of comprehensive regulations on telehealth, which is the use of telecommunications technologies to provide health care. COMAR 10.32.05. The regulations were in development for years and were the product of a stakeholder group which included physicians. In the end, the main and maybe only issue of contention was over whether “asynchronous” telehealth should be allowed, and if so, under what circumstances. “Asynchronous” telehealth occurs when communications between a provider and patient do not occur at the same time; instead, they exchange health information through technologies that let the patient self-report information through, for example, a phone app. The app uses algorithms to obtain results which are later reviewed to decipher an illness or condition. The regulations restricted the use of these asynchronous applications, and House Bill 448 seeks to allow them without limitation, subject to the provider observing standards of care.

MedChi strongly supports the use of telehealth. Among other reasons, it provides access to care to patients who are not near medical facilities or have mobility issues, and it can speed up the transmission of information. However, asynchronous applications require no face to face interaction with patients and may deprive the physician of the ability to ask more detailed questions of the patient and observe their behavior and appearance. MedChi is concerned that the algorithms used to supplant this interaction, even when followed by a physician or physician-extender’s review of the information, may result in bad outcomes that could have been prevented had the provider and the patient had at least one face to face or synchronous encounter, as the 2019 regulations require.

A June 13, 2019 study in Current Dermatological Reports (8:85–90) entitled “Artificial Intelligence in Tele dermatology” states well the tension between traditional face to face visits and the promise of new technology:

The expansion in tele dermatology programs over the past decade is driven by efforts to lower cost of care, expand access to underserved areas, and improve the monitoring of chronic conditions. Although long-distance diagnosis still underperforms relative to traditional, in-person diagnosis, deep learning technologies have demonstrated the potential to achieve results on par with face-to-face care. Current mobile app diagnosis systems rely on unproven technologies which do not achieve the same standard of accuracy. Over the next few years, research in tele dermatology must refine deep learning methods to work with highly variable smartphone images in order to achieve functional long-distance diagnoses.

The technologies in this area are new, and patients are new to them. MedChi believes it would be wise for the State to allow those technologies to develop further, and to use the results that come with that development to inform the laws and regulations that are adopted. In short, the State should take the more cautious approach followed by the 2019 regulations, which limit, at least for now, the use of asynchronous interactions.

For these reasons, MedChi opposes House Bill 448 in its current form.

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