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February 16, 2021

To: The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee

From: The Office of the Attorney General

Re: Senate Bill 568 (Health Care Practitioners - Telehealth - Out-of-State Health
Care Practitioners): Oppose

The Office of the Attorney General (the Office) opposes Senate Bill 568. This bill would allow out-of-state providers of virtually all types to practice telehealth in Maryland under a comprehensive registration scheme in lieu of Maryland's licensure scheme. In recent years Maryland has joined interstate compacts for the licensure of physicians and other providers, and several bills are pending this session that would enter Maryland into interstate compacts for the licensure of psychologists, licensed professional counselors, audiology and speech- language pathology therapists, and occupational therapists. These interstate compacts include telehealth practice provisions that dovetail with Maryland's health occupations regulatory scheme, and offer far more consumer protections than would this bill's registration scheme. Moreover, many of the services that would be allowed seem incompatible with telehealth delivery: acupuncture, massage therapy and nursing home administration, among many others.

While preserving COVID-related expansions of telehealth access is one of the priority actions recommended by the Attorney General's COVID-19 Access to Justice Task Force, the Office supports the approach taken in House Bill 123 and House Bill 551 and their crossfiles: limiting the privilege to providers licensed or certified under Maryland law, which would include out-of-state providers providing telehealth services pursuant to interstate licensing compacts; and requiring, subject to meaningful board oversight, that telehealth delivery be clinically appropriate, available and accessible. The potential fraud, waste and abuse under this bill would threaten the sustainability of permanent telehealth delivery of the mental health and primary care services needed by historically underserved populations in Maryland. For these reasons, we urge an unfavorable report.

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