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THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

February 20, 2024

The Maryland State Senate Finance Committee  
The Honorable Pamela Beidle  
3 East Miller Senate Building  
Annapolis, Maryland 21401

**Re: Senate Bill 506: *State Board of Physicians - Discipline - Administrative Expungement***

Dear Chair Beidle and Members of the Committee,

Under current Maryland law, a physician practicing medicine in the state must be licensed by the Maryland Board of Physicians. In the event of misconduct that violates any statutory disciplinary grounds, a disciplinary panel of the Board may (by a majority vote) reprimand, place on probation, and suspend or revoke the license of a licensed physician.

Many years ago, a well-regarded doctor who is one of my constituents, Dr. Lise Satterfield, was investigated by the Board of Physicians and was asked for certain patient records. Dr. Satterfield referred the request to the vendor managing her company's patient records files. The vendor then made a mistake and provided the Board's investigator with what amounted to patient cover sheets rather than the complete patient files. My constituent had the complete patient files in her possession, but the investigator never asked her to provide them to the Board. The peer review physicians working for the Board therefore never saw the extensive patient records, only the relatively skimpy cover sheets. As a result of this mix-up, Dr. Satterfield was critiqued as having kept inferior records of her patients. Rather than demand a lengthy and expensive hearing before an Administrative Law Judge, Dr. Satterfield entered into a Consent Order placing her on probation for inadequate record-keeping for a period of time.

Years have passed since the period of probation ended. There has been no further accusation of inferior record-keeping, and indeed Dr. Satterfield's record-keeping in the first place was completely professional, as the peer review physicians would have known if they only had asked Dr. Satterfield for her complete patient files.

Because the probation is visible to people who look up Dr. Satterfield's record with the Board of Physicians, every time Dr. Satterfield's license to practice medicine comes up for renewal, she has to disclose the prior probation. This in turn puts the renewal of her ability to prescribe medicine in peril for months at a time.

Aware of this situation, MedChi approached the Board of Physicians and asked the Board to draft Regulations that would enable physicians like Dr. Satterfield who had been placed on probation for committing minor infractions of the Board's disciplinary grounds to get their probations expunged. Four years ago, in February, 2020, the Executive Director of the Board reported to MedChi that the Board was working to develop recommendations on how to implement such an expungement process. Over a year later, in March, 2021, the Board indeed drafted proposed regulations along these lines. Nine months later, in December, 2022, I corresponded with the Department of Health and was advised that the Department was engaged in an internal review of the draft regulations. Nine months later still, last August, MedChi once again inquired about the status of the regulations. This bill is being introduced in order to bring an end to the delays and to put appropriate language into law providing that by the end of this calendar year, the Board "shall adopt" regulations enabling physicians like Dr. Satterfield to expunge ancient probations from the public record.

Senate Bill 506 would require the Maryland Board of Physicians to adopt regulations authorizing a licensed physician to file an application for an "administrative expungement" of certain limited disciplinary actions. The bill defines "administrative expungement" as the classification of a record by the Maryland Board of Physicians as confidential, not for public release, and removed from a licensed physician's public individual profile. This means that the prior disciplinary actions will still be visible to the Board and may be used by the Board for any regulatory purposes. Further, the bill provides that such prior disciplinary actions may also be released to law enforcement or another governmental body, as authorized by law.

Senate Bill 506 is also narrowly defined, with only four types of disciplinary actions eligible for expungement. These consist of (1) failure to complete continuing medical education courses, (2) failure to renew a license on time, (3) failure to notify the Board (in writing) of a change in name or address, and (4) any offense in which probation was imposed and successfully completed. Furthermore, the bill stipulates that there must be a 3-year gap between the disciplinary action and the application for expungement.

Thus this bill is a modest attempt to bring an end to the misery endured by Dr. Satterfield and other Maryland physicians who have completed their terms of probation and want to be able once again to walk out into the clear light of a clean disciplinary record.

The Board of Physicians has submitted an opposition to this bill in which it makes several points. First, it states that the Department of Health is STILL reviewing the proposed regulations and expresses confidence that the Department will indeed review them "in all due course"! The entire reason for this bill is finally produce expungement regulations that will provide relief to Maryland physicians who continue to labor under the cloud of ancient probations. Second, the Board notes that it is required under federal law to report all disciplinary actions to the National Practitioner Data Bank. But presumably such reports are filed at the time that probationary periods are imposed, years before, under Senate Bill 506, physicians will be empowered to apply for expungement.

The enactment of this bill therefore should not in any way impede the reporting of such matters to the Data Bank. Thirdly, the Board complains that Senate Bill 506 will perhaps allow for the potential expungement of serious offenses. I have two responses to this argument. First, if the offenses were indeed serious, one wonders why the penalty imposed by the Board was only a probation, not something more serious. Second, if indeed there are serious offense that only received a probation but that should not be expunged, I would be happy to work with the Board to develop an amendment to this bill exempting such serious offenses from potential expungement. In this regard, I note that the draft regulations produced by the Board do not single out any such serious offenses and exclude them from the expungement process.

I appreciate the Committee's consideration of Senate Bill 506 and will be happy to answer any questions the Committee may have.