

MedChi

The Maryland State Medical Society

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TO: The Honorable Shane E. Pendergrass, Chair
Members, House Health and Government Operations Committee
The Honorable Kathy Szeliga

FROM: J. Steven Wise
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Richard A. Tabuteau

DATE: February 04, 2020

RE: **OPPOSE** – House Bill 259 – *Health Occupations – Diagnostic Evaluation and Treatment of Patients – Disciplinary Actions (The Patient’s Access to Integrative Healthcare Act of 2020)*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **opposes** House Bill 259.

House Bill 259 prohibits the Board of Physicians and other health professional boards from disciplining licensees who use “integrative, complementary, alternative or nonconventional” diagnostic evaluations or treatments, except under certain circumstances. MedChi opposes this legislation for the reasons set forth below, but also offers a different solution to the issue.

The bedrock of the practice of medicine is that the treatment of patients be based on science that has been appropriately tested and verified through trials, medical journals and studies, and becomes the “appropriate standard of care”, to use the statutory terminology. Indeed, in physician disciplinary matters related to the standard of care, peer review is used to determine if the physician deviated from that standard. House Bill 259 would change this standard in several ways.

First, the bill covers those practicing in “integrative, complementary, alternative or nonconventional” treatments, yet those terms are undefined in the legislation, creating an opening through which any provider of a controversial or unproven treatment will try to proceed. Second, if such practices are used, the standard for discipline is extremely high, requiring the governing board to determine if the practice has “significant risk greater than the conventional methods” and that the “risk is not outweighed by the *potential* benefits”, or proving by clear and convincing evidence that the practitioner knew there was not a reasonable basis for the practice and was intended to defraud. These protections are so broad that they could shield those who simply practice bad medicine from appropriate disciplinary action.

The bill also prohibits a professional board from disciplining a provider who has used an *unapproved* drug, device, biological product or method from being disciplined. These provisions are alarming to the physician community because they undermine the longstanding requirement that treatments have a scientifically proven basis.

However, MedChi recognizes that the physician community, including those who become members of the Board of Physicians, may not be adequately exposed to alternative treatments that may, in fact, have a proven scientific basis. The education of Board members in these practices would be the appropriate way to ensure that newer, proven alternative treatments are not unfairly cast aside and judged as outside the appropriate standard of care. Furthermore, installing a physician who practices in “integrative” medicine on the Board should be considered, so that there is a voice in the room who can lend their expertise and knowledge when disciplinary matters of this nature arise.

For these reasons, it is MedChi’s view that House Bill 259 should not be adopted, but that the other solutions set forth above be considered instead.

For more information call:

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