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February 4, 2020

To: The Honorable Shane E. Pendergrass
Chair, Health and Government Operations Committee

From: Patricia F. O'Connor, Health Education and Advocacy Unit

Re: House Bill 259 Health Occupations - Diagnostic Evaluation and Treatment of Patients -
Disciplinary Actions (The Patient's Access to Integrative Healthcare Act of 2020):
Oppose

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) opposes House Bill 259 because exempting providers of integrative, complementary, alternative or nonconventional medical care from the full disciplinary authority applicable to conventional medical care, as the bill proposes, would put patients at risk of harm. We have communicated our concerns to the bill's sponsor; the bill's proponents; and to MedChi and the Board of Physicians, who have proposed promising amendments to address shared concerns.

We are concerned that the bill does not define "integrative", "complementary", "alternative" or "nonconventional." The lack of specificity is particularly concerning because of the proposed "informed consent" requirement that, if satisfied, would virtually exempt integrative, complementary, alternative or nonconventional medical care from disciplinary authority by all health occupation boards.

A narrow disclosure of "the nature of the diagnostic evaluation or treatment" – without full explanation of the risks, benefits and costs of conventional care as well as the integrative, complementary, alternative or nonconventional care – plus written consent would broadly exempt a provider from disciplinary authority, to the provider's benefit and the patient's potential detriment. We believe this provision would shift professional and ethical responsibilities from a provider to a patient in a manner that is simply wrong. Moreover, the HEAU does not believe imposing fuller disclosure requirements would adequately protect patients from the risks posed by the bill's reduction of disciplinary authority because patients cannot realistically protect themselves from all of the potential risks of unregulated medical care.

The bill would render the practice of integrative, complementary, alternative or nonconventional care virtually unregulated by professional bodies. All health occupations boards would be prohibited from taking disciplinary action unless the board proves that the treatment has a significant safety risk that is not outweighed by the potential benefits, or the board can prove by clear and convincing evidence that the provider knew the diagnostic or treatment method did not have a reasonable basis and was intended to defraud the patient. These changes would invite providers to self-label care as integrative, complementary, alternative or nonconventional as a defense to *any* case alleging violations of standards of care so the more lenient rules would apply.

Finally, changes to current peer review processes, i.e., requiring unanimous decisions and inclusion of a peer reviewer “with integrative, complementary, alternative or nonconventional training” risk creation of veto power for the benefit of nonconventional providers while conventional providers remain subject to the full disciplinary authority of all health occupations boards. We submit there is no evidence of an urgent need for the extraordinary protections the bill would create for certain providers and access to these types of care is best achieved through means other than altering crucial regulatory protections for consumers.

For these reasons, we urge the committee to give the bill an unfavorable report.

cc: Members of the Health and Government Operations Committee