



Board of Physicians

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Damean W.E. Freas, D.O., Chair

February 2, 2021

The Honorable Paul G. Pinsky and committee members
Chair, Education, Health and Environmental Affairs Committee
2 West Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

RE: SB 72- Open Meetings Act – Requirements for State Agencies and Local Boards of Elections (Maryland Transparency Act of 2021) – Letter of Concern

Dear Chair Pinsky:

The Maryland Board of Physicians (the “Board”) is submitting this Letter for SB 72 – Open Meetings Act – Requirements for State Agencies and Local Boards of Elections (Maryland Transparency Act of 2021).

Maryland's Open Meetings Act (the “Act”) requires most State and local public bodies to hold open meetings, give the public adequate notice of those meetings, and to allow public inspection of meeting minutes. The Act's goals are to increase the public's faith in government, ensure the accountability of government to the public, and enhance the public's ability to participate effectively in our democracy. The Act, however, permits public bodies to discuss some topics confidentially.

SB 72 makes changes to the Act related to the materials required to be made available to the public and while the Board supports transparency there are concerns about the proposed changes related to matters that have a legitimate need for confidentiality, fiscal issues, and administrative matters.

Currently, the Board holds regularly scheduled panel and board meetings every other week. Information about the meeting is published regularly on the website, including dates, agendas and that they are open to the public. Minutes are also made available to the public once voted on and approved by the Board.

The first issue is on page 6, lines 1-7 regarding §3-302.1(C)(2): The requirement to post the agenda and *all meeting materials*. The term “all meeting materials” is not defined. The Board has an open and closed agenda, and all meeting materials could include closed agenda items and disciplinary matters. Section 14-411(b) of the Maryland Medical Practice Act expressly prohibits the Board, or

Page 2

SB 72 – Letter of Concern
Board of Physicians

a disciplinary panel from disclosing any information contained in a record; those materials are not disclosable under the Public Information Act. The term should be defined to be limited to only documents legally disclosable under the Public Information Act.

The second major area of concern is the requirement to keep complete videos and transcriptions for a minimum of 1 year on page 7, lines 8-15.

The live video or audio streaming and retention, as well as the transcription requirement for a minimum of one year is very problematic on many levels. The Board meets twice a month, with meetings averaging 8 hours in length. The current internet access is unreliable and would also need an upgrade as well as additional storage requirements. Acquiring appropriate technology to live stream, additional storage for retention and the corresponding Information Technology and staff expenses will result in significant fiscal implications for the Board which are currently indeterminate.

In addition, the items to be retained pursuant to the bill would be unedited and difficult to follow outside the context of the meetings and may be confusing rather than helpful to consumers. The Board believes that the agenda and meeting minutes that document and memorialize the decisions that are made by public bodies are much more meaningful and should be published, not the full videos and transcripts. Consequently, the retention language in SB 72 should be removed.

For these reasons, the Board respectfully requests that the bill be amended to address the outlined concerns in SB 72.

Thank you for your consideration of this information. If you have questions or need additional information, please contact Wynne E. Hawk, 410-764-3786.

Sincerely,



Christine A. Farrelly
Executive Director

cc: Members of the Education, Health, and Environmental Affairs Committee
Webster Ye, MDH

The opinion of the Board expressed in this document does not necessarily reflect that of the Maryland Department of Health or the Administration.