

# MedChi

*The Maryland State Medical Society*

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TO: The Honorable William C. Smith, Jr., Chair  
Members, Senate Judicial Proceedings Committee  
The Honorable Christopher T. Adams

FROM: Gene M. Ransom III  
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DATE: March 31, 2021

RE: **SUPPORT WITH AMENDMENT** – House Bill 1153 – *Names of Entities With Physician Membership – Approval Requirement – Exemption*

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The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **supports with amendment** House Bill 1153.

Under current law, professional corporations must file an application with the State Department of Assessments and Taxation (SDAT) for use of a corporate name, if the name does not include the surname of its owners. Professional corporations include architects, engineers, physicians, and others. SDAT is required to send these applications to the licensing board which regulates that profession for approval, and the licensing board must send it to the association related to that profession for its approval. This bill only applies to professional corporations comprised of physicians.

This process is outdated and poses antitrust issues under the Supreme Court's decision in North Carolina State Dental Board v. FTC, 135 S.Ct. 1101 (2015), because it asks physicians to approve of names proposed by other physician groups. Neither the Board of Physicians ("Board") nor MedChi are denying names anymore out of concern that they could be sued for restraint of trade, so House Bill 1153 serves to address this issue but also preserve the consumer protections offered by the statute.

House Bill 1153 removes MedChi and the Board from the role of *approving* applications for the names of physician professional corporations. Under the sponsor's amendments MedChi will still *review* the name and either take no action or refer it to the Department of Health if the proposed name is deceptive or misleading. It is important to note that there are very few such applications each year (2 in FY 2020, and 6 thus far in FY 2021, per Fiscal Note) so the workload is not heavy, but the legal exposure is substantial.

This legislation addresses an important legal issue, and we ask for your support of House Bill 1153 with the sponsor's amendments.