

MedChi

The Maryland State Medical Society

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TO: The Honorable Joseline A. Pena Melnyk, Chair
Members, House Health and Government Operations Committee
The Honorable Matthew Morgan

FROM: J. Steven Wise
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DATE: February 29, 2024

RE: **OPPOSE** – House Bill 1132 – *Drugs, Biological Products, and Devices – Off-Label Use – Promotion*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **opposes** House Bill 1132.

This legislation would prohibit the State from taking any disciplinary action against a health care provider for “engaging in a truthful promotion of an off-label use of a drug, biological product, or device”.

MedChi believes this legislation would take a settled area of medical practice and the law governing it and inject confusion and uncertainty. As background, physicians are subject to disciplinary action by the Board of Physicians as well as medical malpractice lawsuits if it is proven that they have failed to meet the appropriate standard of care with a patient. What the standard of care is in a particular situation is determined using medical journals, studies, and even expert witnesses that demonstrate whether the treatment of the patient is consistent with scientifically proven methods.

The standard is no different when an off-label use of a drug is involved. If that use is consistent with the standard of care, it is appropriate and not subject to discipline. Altering that by inserting an additional standard of “truthful promotion of an off-label use” injects a seemingly subjective criteria into what is the appropriate care of a patient. MedChi believes this could create confusion and result in the Board of Physicians being unable to appropriately discipline physicians and other providers who have deviated from the accepted standard of care.

For these reasons, MedChi respectfully requests an unfavorable report on House Bill 1132.