

MedChi

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TO: The Honorable Joseph F. Vallario, Jr., Chairman
Members, House Judiciary Committee
The Honorable William J. Frank

FROM: Joseph A. Schwartz, III
Pamela Metz Kasemeyer
J. Steven Wise

DATE: March 16, 2011

RE: **SUPPORT** – House Bill 1192 – *Health Care Malpractice, - Expression of Regret or Apology - Inadmissibility*

The Maryland State Medical Society (MedChi), which represents over 7,300 Maryland physicians and their patients, supports House Bill 1192.

House Bill 1192 would amend the Maryland Apology Law to be in the same form as it passed the House of Delegates in House Bill 2 during the 2005 Special Session of the General Assembly dealing with medical malpractice. The Senate refused the House formulation and added language to the effect that a physician's "apology" would be admissible if it constituted an "admission against interest." This Senate amendment effectively gutted the Apology Law which is designed to have treating physicians speak to their patients after unforeseen events occur without fear that their expressions of sympathy or concern are used against the physician in a later malpractice suit.

The present Apology Law is unworkable and one would have to be a Philadelphia lawyer to parse the language which a physician could use so that an apology or expression of regret is not considered an admission against interest. The entire notion of the Apology Law was to encourage communications between physicians and their patients after an unexpected outcome so that the doctor and patient could jointly try to remediate any medical difficulty. Because of the Senate amendment, the physician and patient are

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placed in an adversarial position which is not conducive to the continued proper treatment of the patient by the treating physician.

MedChi would ask that the Maryland Apology Law be returned to the form that originally passed the House of Delegates in the 2005 Special Session.

For more information call:

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