

# MedChi

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TO: The Honorable Peter A. Hammen, Chair  
Members, House Health & Government Operations Committee

FROM: Joseph A. Schwartz, III  
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DATE: March 12, 2014

RE: **SUPPORT WITH AMENDMENT** – House Bill 1456 – *Department of Health and Mental Hygiene – Board of Review - Jurisdiction*

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The Maryland State Medical Society (MedChi), which represents more than 8,000 Maryland physicians and their patients, supports House Bill 1456 with amendment.

House Bill 1456 eliminates the Board of Review within the Department of Health and Mental Hygiene (DHMH) as part of the appeals process from numerous health occupations boards within DHMH.

As part of the Sunset Review conducted on the Board of Physicians in 2013, the General Assembly eliminated this unnecessary step in the appeals process. House Bill 1456 takes this same action with regard to other health occupation boards.

In this effort to make uniform among the various boards the procedures for disciplinary proceedings, MedChi would seek the following amendment: On Page 12 of the Bill, strike all of lines 9-10. This amendment would allow a physician who is subject to disciplinary action to seek a stay from a court pending review of the case. In 2013, in rejecting House Bill 1290, this Committee *preserved* the ability of numerous other healthcare practitioners to seek stays while a disciplinary matter is pending. MedChi simply asks that with this amendment, physicians be treated the same.

A stay is very difficult to obtain. The physician must show four things: (1) the likelihood that the physician will succeed on the merits of his case; (2) the ‘balance of convenience’

determined by whether greater injury would be done to the physician or the Board of

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Physicians by granting the stay; (3) whether the physician will suffer irreparable injury unless the stay is granted; and (4) the public interest. *See Fogle v. H&G Restaurant, Inc.*, 337 Md. 441, 455 (1995). Any concern that a physician who is properly disciplined by the Board could undermine that decision through a stay is readily removed by these rigorous standards. Instead, a stay would only be obtained in those cases where there has been clear error on the part of the Board. This is a fair protection for a physician and one that should exist for the same reasons it exists with other health occupations.

For these reasons, MedChi urges this Committee to support House Bill 1456 with the amendment set forth above.

**For more information call:**

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