

# SCHWARTZ, METZ & WISE, P.A.

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TO: The Honorable Brian E. Frosh, Chairman  
Members, Senate Judicial Proceedings Committee  
The Honorable Delores Kelley

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

DATE: January 30, 2014

RE: **OPPOSE** – Senate Bill 210 – *Child Abuse – Failure to Report – Penalties and Task Force*

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On behalf of MedChi, the Maryland State Medical Society (MedChi) and the Maryland Chapter of the American Academy of the American College of Emergency Physicians (MDACEP), we oppose Senate Bill 210.

As stated in previous years on similar legislation, MedChi and MDACEP oppose the imposition of criminal penalties for failure to report child abuse and neglect when adequate penalties already exist in the law for such a failure to report. In fact, the licensing statute for physicians in Maryland makes the failure to report abuse a basis for reprimand, probation, suspension or revocation of the physician's license. *See* Health Occ., §14-404(a)(25). Moreover, the Board is permitted to fine physicians for their failure to report. *See* Health Occ., §14-405.1.

MedChi and MDACEP do not believe that a physician who fails to report abuse or neglect would be further incentivized to do so by the presence of a criminal penalty and fine. Loss of one's license, rendering the person unable to practice medicine and earn a living, is the greatest penalty that could be put upon a physician, and therefore constitutes more than adequate motivation to report child abuse and neglect. Further penalties in this respect would be superfluous and unnecessary.

Furthermore, MedChi and MDACEP would also assert that, if in fact further penalties are determined to be warranted, then the appropriate penalties should be defined in conjunction with a number of other issues which significantly impact appropriate reporting. These include, but are not limited to: ease of reporting; education of mandatory reporters and judges; enhanced Department of Social Services funding to ensure prompt and appropriate intervention following a report;

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identification of additional individuals who should be required to report; and better education of parents, children and the public on child abuse and neglect issues. While Senate Bill 210 does propose a Task Force to address the education of providers and a subset of other relevant issues, its composition is unwieldy and its charge too narrow and consequently will not adequately address the aforementioned issues that are the core of failure of the system to identify child abuse and neglect. MedChi and MDACEP would support the creation of a task force to comprehensively look at these issues including the imposition of penalties – unfortunately, Senate Bill 210 fails to do so.

As written, MedChi and MDACEP respectfully request an unfavorable report.

**For more information call:**

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