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TO: The Honorable William C. Smith, Jr., Chair
Members, Senate Judicial Proceedings Committee
The Honorable Anthony G. Brown

FROM: J. Steven Wise
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DATE: February 28, 2023

RE: **OPPOSE** – Senate Bill 666 – *Maryland False Claims Act and Maryland False Health Claims Act – Revisions*

On behalf of the Maryland State Medical Society, the LifeSpan Network, and the Maryland-National Capital Homecare Association, we respectfully **oppose** Senate Bill 666.

Senate Bill 666 relates to the Maryland False Health Claims Act, a statute which allows a person to sue on behalf of the State to recover State funds that were disbursed as the result of fraud. These *qui tam* lawsuits allow a private “relator” to file lawsuits on behalf of the State, and the State then takes over the case, rewarding the relator with up to 15-25% of the funds recovered.

Under current Maryland law, however, the relator cannot continue the case if the State chooses not to proceed. The State in effect serves as a gatekeeper so that only meritorious cases advance. This was an important aspect of the original law, adopted in 2010, that helps to prevent frivolous cases from being maintained by private parties and plaintiffs’ attorneys. Senate Bill 666 would repeal this important check and balance.

The Committee should keep in mind that while many *qui tam* cases are filed against larger health care facilities and entities, they may also be maintained against smaller physician practices and providers. Where fraud has occurred there should be a remedy for the State, and the above-referenced organizations believe that the current law provides that. The ability for countless “relators” and their attorneys to be permitted to advance cases that the State has not seen fit to maintain is troublesome, and we state this with full knowledge that the federal false claims statute and that of some other states already permit what is proposed here. Indeed, Senate Bill 666 ups the ante on filing such suits by providing the relator with the right to retain 25-30% of the proceeds of the claim. This higher payout coupled with the removal of the State as a gatekeeper is of serious concern to these organizations.

For the reasons set forth above, we oppose Senate Bill 666.