

MEDCHI, THE MARYLAND STATE MEDICAL SOCIETY
HOUSE OF DELEGATES

Resolution 7-20

INTRODUCED BY: Board of Physicians Task Force

SUBJECT: Final Report of the Board of Physicians Task Force

1 Whereas, the MedChi Board of Trustees created the Board of Physicians Task Force on February
2 15, 2018 to address issues that members had raised with the Board of Physicians; and

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4 Whereas, the Task Force has conducted its work and hereby files this Final Report with the
5 House of Delegates; and

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7 Whereas, the MedChi House of Delegates adopted three resolutions in 2018 that would be the
8 subject of legislation in 2019, and the Task Force monitored these efforts. The action sought by
9 these resolutions and their status are set forth below:

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11 1) Resolution 37-18-Adverse Actions by Institutions and Insurance Carriers, calling for
12 legislation prohibiting insurance carriers from taking adverse action against a
13 provider based solely on the fact that the provider was placed on probation by the
14 Board of Physicians. Key leaders in the General Assembly made clear during the
15 2019 Session that insurers should have the right to determine whether any
16 disciplinary matter should be the basis for removing a provider from their panel or
17 taking other action. Recognizing this political barrier, these efforts were tabled until
18 the political environment changes or another opportunity presents itself to address
19 this issue;
- 20 2) Resolution 38-18—Expungement of Public Reprimands and Probation, calling for
21 legislation that allows for the expungement of all physician records of probation or
22 reprimand. Research revealed that few if any states have any expungement process,
23 and that the National Practitioner Data Bank would still provide this information even
24 if expunged at the State level. Still, MedChi and the Board of Physicians in 2020
25 began working on an expungement process for certain minor violations and that effort
26 is ongoing; and
- 27 3) Resolution 39-18—Peer Review Findings in a Board Investigation, calling for a
28 supermajority of a disciplinary panel to resolve any disagreement among the two peer
29 reviewers in a standard of care case. Legislation to this effect was rejected by the
30 General Assembly, after the Board of Physicians requested that only one peer
31 reviewer be required. In 2020, the Legislature required the Board of Physicians to
32 study how many times disagreement occurs among the two peer reviewers and the
33 result, so that the frequency of this issue is understood, and that study is underway;
34 and
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36 Whereas, the Task Force also analyzed and discussed other issues involving the Board of
37 Physicians as follows:

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- 39 1) The case of Maryland Board of Physicians v. Mark Geier (2019), in which the Court
40 of Special Appeals ruled that the members of the Board of Physicians and the staff
41 have absolute immunity from civil suit for their actions in investigating a disciplinary
42 matter, despite the statute providing for immunity if no actual malice is shown. The
43 Board of Trustees determined in the fall of 2019 not to pursue legislation addressing
44 this court decision.
 - 45 2) The issue of Lyme Disease and the discipline of integrative medicine physicians who
46 utilized various treatments for it was the subject of legislation during the 2018-2020
47 timeframe. Integrative medicine physicians pressed for legislation that would carve
48 out treatment of this disease from the disciplinary process, something that MedChi
49 opposed because of the gaping holes it would create in that process. During the 2020
50 Session, after much work and debate, the Legislature passed HB 259/SB103 that
51 simply prohibits an integrative medicine physician from being disciplined “solely” on
52 the basis that they have used integrative procedures, which should resolve the matter.
 - 53 3) Efforts by Naturopaths to pass legislation allowing them to prescribe prescription
54 drugs was also discussed. The Legislative Council has consistently taken a position of
55 opposition to this measure and it was once again defeated during the 2020 General
56 Assembly Session; and

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58 Whereas, the Task Force has addressed to the best of its ability and to the extent currently
59 possible those issues which were the subject of the three resolutions in 2018 and the other
60 matters set forth above which arose during this timeframe; and

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62 Whereas, the Legislative Council regularly monitors issues related to the Board of Physicians
63 and the Board of Trustees is alerted when important issues arise, and accordingly the Task Force
64 believes it should be disbanded and its work continued as needed through the Council and the
65 Board; therefore be it

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67 Resolved, that the Board of Physicians Task Force is hereby disbanded, with the Legislative
68 Council and the Board of Trustees to assume the role of monitoring and addressing issues which
69 arise with the Maryland Board of Physicians.

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72 Fiscal Note: No significant fiscal impact.