TO: The Honorable Joseph F. Vallario, Jr., Chair
Members, House Judiciary Committee
The Honorable Kathleen M. Dumais

FROM: J. Steven Wise
Pamela Metz Kasemeyer
Danna L. Kauffman

DATE: March 9, 2017

RE: SUPPORT WITH AMENDMENT – House Bill 1263 – Family Law – Child Abuse and Neglect – Definitions

On behalf of the Maryland State Medical Society (MedChi) and the Maryland Chapter of the American College of Emergency Physicians (MDACEP), we submit this letter of support for House Bill 1263, with amendment.

This legislation alters the definition of “abuse” as currently set forth in §5-701 of the Family Law Article. The definition is currently applicable to parents or others who have care, custody, or responsibility for the supervision of a child. The bill expands that definition to include “a person who, because of the person’s position or occupation, exercises authority over the child.” We believe this definition could include a physician and, for that matter, any health care practitioner.

Our concern is that the expanded definition of “abuse” does not clearly exclude the treatment of a patient by a practitioner. A health care provider should be able to treat a patient consistent with the medical standards of care without concern that allegations will later be made that the treatment was “abusive” under the law. Accordingly, we have set out below a suggested amendment to clarify this. To be clear, this amendment is intended to protect the health care provider who is acting in accordance with the standards of care; it is not intended to protect the rare but nevertheless possible circumstance where a practitioner is actually abusive to a patient.

With this amendment, MedChi and MDACEP would support this legislation.

On Page 2, at line 11:

(2) “Abuse” does not include:

(a) the physical injury of a child by accidental means; OR

(B) TREATMENT OF A PATIENT BY A LICENSED HEALTH CARE PROFESSIONAL CONSISTENT WITH MEDICAL STANDARDS OF CARE.

For more information call:
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