

MedChi

The Maryland State Medical Society

1211 Cathedral Street
Baltimore, MD 21201-5516
410.539.0871
Fax: 410.547.0915

1.800.492.1056

www.medchi.org

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

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

DATE: February 24, 2010

RE: **SUPPORT WITH AMENDMENT** – House Bill 431 – *Medical Review Committees – Subpoenas – Medical Records for Mental Health Services*

The Maryland State Medical Society (MedChi), which represents over 7,300 Maryland physicians and their patients, supports House Bill 431 with amendment.

House Bill 431 requires a medical review committee with subpoena powers that issues a subpoena for a patient's mental health medical records as the result of a complaint to notify the patient that the subpoena was issued.

This legislation is designed to remedy the type of problems encountered by Dr. Harold Eist who became a pawn in a bitter divorce and custody dispute when the husband accused Dr. Eist of inappropriate professional behavior concerning the wife and minor children. Dr. Eist refused to release his patients' records and extraordinarily expensive litigation occurred. If the Dr. Eist situation were to occur again and House Bill 431 were to become law, the Board of Physicians would advise Dr. Eist's patients of the existence of the subpoena and the patients would then have the opportunity to move to quash the subpoena.

While MedChi believes that this legislation is a reasonable compromise between the need of health occupations boards to secure medical records and the need to preserve the confidentiality of the psychiatrist/patient relationship, it is troubled by the use of the term "medical review committee" which differs from last year's bill. Medical review

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committees can include much more than health occupations boards (See Health Occupations Article, §1-401(b)). MedChi believes that among medical review committees, only the health occupations boards have subpoena power anyway. Thus, the clearer and simpler approach is to limit House Bill 431 to “health occupation boards” only and eliminate the use of the term medical review committee altogether.

MedChi therefore propose that, in each instance where it appears, the phrase “medical review committee” be substituted with “health occupation board”.

Thank you for your consideration.

For more information call:

Joseph A. Schwartz, III
Pamela Metz Kasemeyer
J. Steven Wise
410-269-1618