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TO: The Honorable Peter Hammen, Chairman
Members of the Health and Government Operations Committee

FROM: Joseph A. Schwartz, III
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DATE: January 26, 2006

RE: **SUPPORT WITH AMENDMENTS** – House Bill 121 – *State Board of Physicians – Sunset Extension and Program Evaluation*

The Maryland State Medical Society (MedChi) which represents over 7,200 Maryland physicians and their patients supports, with amendments, House Bill 121.

House Bill 121 is a result of a “Sunset Review” with respect to the newly constituted Maryland Board of Physicians (MBOP). The MBOP was reconstituted in 2003 and the General Assembly directed that a review of its operations be completed. This Sunset Review was completed in October of 2005. House Bill 121 contains legislative changes recommended in that Sunset Review.

The Sunset Review made 23 recommendations; MedChi agrees with 20 of these recommendations, supports another with a slight amendment and only objects to 2 recommendations.

First, House Bill 121 alters the present law to open disciplinary proceedings to the public. MedChi believes that this provision of the bill should be amended to reflect that the actual decisional discussions by the MBOP would remain closed while all other aspects of the disciplinary process would be open. This is similar to the way that judicial trials are conducted in that the trial is open but the jury retires in private to reach its decision.

Second, House Bill 121 alters the present law to allow the MBOP to contract with a “for profit” entity for purposes of providing a physician rehabilitation program or, in the alternative, to conduct the program itself. MedChi believes that the MBOP should not be in the position of “rehabilitating” physicians when its primary job is the of licensing and disciplining physicians. It is unlikely that a physician suffering from alcohol or drug dependency will be comfortable with the MBOP monitoring his or her “rehabilitation” when the physician knows MBOP may revoke his or her medical license. MedChi believes that the MBOP has an inherent conflict of interest in this regard. Moreover, MedChi believes it is wise to keep both the peer review activities and physician rehabilitation activities lodged in “not for profit” entities as was legislated in 2003.

Third, MedChi disagrees with that recommendation which allows the MBOP to withdraw cases from the Office of Administrative Hearings and have the cases heard by a subcommittee of the MBOP. MedChi sympathizes with the budgetary concerns of the MBOP which apparently inspire this particular recommendation. Moreover, MedChi believes that the Office of Administrative Hearings has not been diligent in providing judges who have adequate medical training to hear complicated cases involving the standard of medical care. Nevertheless, MedChi believes that the “independence” of the Administrative Law Judge is a critical factor when a doctor’s license is on the line. MedChi would suggest that this provision of the bill be stricken but that alternative language be included to require adequately trained judges for MBOP cases.

For more information call:

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