

MedChi

The Maryland State Medical Society

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TO: The Honorable Thomas M. Middleton, Chairman
Members, Senate Finance Committee
The Honorable Edward J. Kasemeyer, Chairman
Members, Senate Budget & Taxation Committee
The Honorable John Astle

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

DATE: February 16, 2011

RE: **SUPPORT** – Senate Bill 107 – *Health Benefit Exchanges – Establishment and Operations*
SUPPORT IF AMENDED – Senate Bill 182 – *Maryland Health Benefit Exchange Act of 2011*

The Maryland State Medical Society (MedChi), which represents over 7,300 Maryland physicians and their patients, supports Senate Bill 107 and Senate Bill 182 if amended.

These bills seek to establish the Insurance Exchange required by federal health reform. The Exchange will serve as a marketplace/clearing house for those individuals seeking insurance coverage. Many currently uninsured individuals will be eligible for federal subsidies to assist with the new federal law requiring the purchase of health insurance. The federal law envisions “Navigators” to assist persons coming to the Exchange.

The two bills before you create the Exchange but do so in different ways. One bill establishes the Exchange as a not-for-profit corporation while the other establishes the Exchange as a government entity. MedChi understands that many individuals are wary of yet another government agency. Maryland has a history of creating government agencies to regulate health care including the Health Service Cost Review Commission and the Health Care Commission. There are ardent critics of these agencies

MedChi would prefer the not-for-profit model or, at least, the creation of a Public Corporation. Senate Bill 182 creates the Exchange as a unit of state government (page 8,

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Senate Bill 107
Senate Bill 182
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line 17) but then has to “exempt” it from various laws which restrict the operation of a state governmental unit. The creation of the Exchange as a Public Corporation would, however, have to include provisions that certain provisions applicable to state government applies such as open meeting laws and the like.

While this change may seem cosmetic, MedChi believes that a considerable amount of legitimate angst exists over government’s intervention in health care and it may be moderated by a different legal structure.

MedChi also believes that all voting members of the Exchange Board should be subject to the advice and consent of the Maryland Senate. Senate Bill 182 appoints the Secretary of Health and Mental Hygiene, the Insurance Commissioner and the Executive Director of the Maryland Health Care Commission as three of the nine members of the Board. It may be that these individuals should be *ex officio* members of the Board but, if so, they should not have a voting role. This change would further the removal of the Exchange from being a governmental unit.

Finally, MedChi would propose the Exchange be limited from taking any further action in future years until expressly authorized by the General Assembly. Under Senate Bill 182, the Exchange is instructed to study and make recommendations concerning several important matters (page 31, line 23 through page 33, line 18). Those matters are to be reported to both the Governor and the General Assembly with recommendations. MedChi believes that those recommendations should not be accepted until separate legislation is introduced before the General Assembly and signed into law by the Governor. Accordingly, the language on page 31, lines 12 and 13, should be amended to so reflect. Moreover, the language on page 16, lines 10-13, should be amended to reflect this point.

If Senate Bill 107 is the preferred alternative, MedChi believes that several amendments are needed to ensure that the Exchange has an open and transparent process that can be viewed by members of the public.

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