

MedChi

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TO: The Honorable Peter A. Hammen, Chairman
Members, House Health & Government Operations Committee
The Honorable Joseph F. Vallario, Jr., Chairman
Members, House Judiciary Committee
The Honorable Luiz Simmons

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

DATE: March 1, 2013

RE: **OPPOSE** – House Bill 810 – *Mental Health Professionals – Duty to Report Risk of Serious Harm – Firearm Safety*

The Maryland State Medical Society (MedChi), which represents over 7,500 Maryland physicians and their patients, opposes House Bill 810.

House Bill 810 establishes new, broad and vaguely defined reporting requirements for mental health professionals, including all physicians, that are triggered by the mental health professionals' belief that a patient is "likely to be dangerous." The bill also establishes a reporting system that fails to recognize the need to immediately address the safety concerns regarding potentially dangerous patients.

Current law (Court and Judicial Proceedings §5-609) already addresses how mental health professionals must deal with dangerous patients through well-established reporting requirements known as "Tarasoff requirements." These requirements allow a health care provider, in a situation where they believe a patient expresses an intent to inflict imminent physical injury upon a specified victim or group of victims, to meet their duty to take action if the provider: (1) seeks civil commitment of the patient, (2) formulates a treatment plan that eliminates the possibility of the threat, or (3) informs the appropriate law enforcement agency and, if feasible, the specified victim or victims. The Tarasoff requirements provide mental health professionals the flexibility they need to choose the correct course of action when dealing with potentially dangerous patients.

The Honorable Peter A. Hammen, Chairman
The Honorable Joseph F. Vallario, Jr., Chairman
House Bill 810
Page Two

In contrast, the provisions of House Bill 810, which expand the trigger for reporting from the current standard of a patient actually making a threat to the “patient displaying a likelihood of engaging in conduct that would result in serious harm,” impede if not eliminate the mental health professional’s ability to make suitable and timely determinations of risk of harm that allow them to treat their patients effectively and protect the public.

Many people engage in risky behaviors that may present a risk to themselves or others but they do not pose a threat serious enough to demand reporting. The broad language of House Bill 810 is likely to generate a perception of aggressive and unnecessary reporting that may actually serve as a deterrent for those who are in serious need of treatment to seek care. In addition, current law limits reporting to circumstances when there is a threat of *imminent* injury. House Bill 810 requires mental health care providers to report when there is a possible risk of harm at any time in the future. It is not possible to accurately predict the actions of a dangerous patient beyond what may be imminent. Current law also requires an identified victim or group victims. House Bill 810 has no such limitation.

MedChi is also concerned about the fragmented reporting procedure defined in House Bill 810. The bill requires a physician to notify the Secretary of Mental Hygiene (presumably the Secretary of the Department of Health and Mental Hygiene) who would then make a determination of whether to make a report to the Secretary of the State Police, who would then make a report to local law enforcement. This reporting requirement provides a serious impediment to addressing immediate safety concerns. A physician who believes a patient is at risk for harm to self or others must respond rapidly. Current law, based on the “Tarasoff requirements”, as well as Emergency Petition procedures (Health General §10-622), allows the physician to directly communicate concerns to the appropriate law enforcement agency in order to address that risk. House Bill 810’s divided reporting process would undermine that authority.

MedChi finds that House Bill 810, if enacted, may actually increase the risk of harm to individuals or the public at large in contradiction to the presumed objective of the sponsor to protect the public from potentially dangerous individuals. MedChi respectfully requests an unfavorable report.

For more information call:

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