

MedChi

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TO: The Honorable Peter A. Hammen, Chairman
Members, Health & Government Operations Committee
The Honorable Wade Kach

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

DATE: February 27, 2013

RE: **SUPPORT** – House Bill 899 – *State Board of Physicians – Disciplinary and Licensure Procedures - Revision*

The Maryland State Medical Society (MedChi), which represents over 7,500 Maryland physicians and their patients, supports House Bill 899.

House Bill 899 is related to the Board of Physicians and its operations and disciplinary procedures, much like the Sunset legislation also before this Committee. However, this legislation addresses several important issues not addressed in the Sunset bill.

First, the legislation allows a physician to obtain up to 10 of the required 50 continuing medical education credits every 2 years by providing volunteer pro bono medical services in the State. Other health professions already permit CME credits for such service. Incentivizing physicians to do the same is very much in the State's interest in light of the demand for health care services.

Second, the bill addresses a serious problem regarding the Board's summary suspension process. Under that formidable power, the Board may take a physician's (or any allied health professional's) license PRIOR to any hearing. But numerous steps (see attached) follow that action which result in the physician being without a license for well over a year. By that time, it matters little whether the physician is found to have committed wrongdoing or not, because they are effectively out of business. MedChi is not attempting to remove that power because it is a necessary one in some instances, but if the Board opts to exercise it, the process must be made much more efficient. This legislation provides for that efficiency by allowing the physician to get to court more quickly when the license is summarily suspended.

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Third, the bill provides the Board with the authority to adopt regulations which would permit a physician to have certain disciplinary proceedings expunged from his or her record. The bill provides the Board with wide latitude in this regard, and it is MedChi's intent that only minor offenses where patient safety was not an issue could be expunged. Indeed, if a common criminal can have an offense expunged, a physician with a longstanding clear record should be permitted to petition the Board for similar relief.

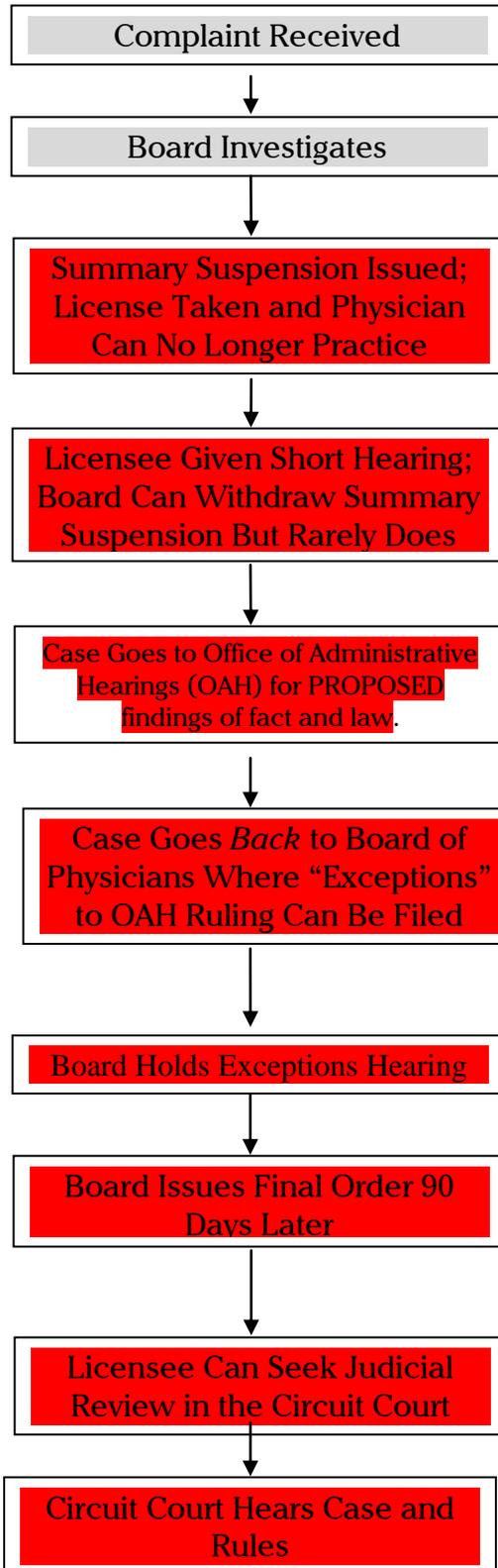
Finally, the bill requires that the Board prove any factual findings by clear and convincing evidence, rather than a preponderance of the evidence. This was the standard for many years in the State. This is equivalent to saying that the standard should be 75% certainty rather than 51% certainty. The stakes are very high for licensees who are the subject of disciplinary actions and include license revocation. MedChi believes that this evidentiary standard will ensure that action will not be taken unless the Board is quite certain of the facts which underlie the action.

For these reasons, MedChi strongly supports this legislation.

For more information call:

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SUMMARY SUSPENSION PROCESS



**Process Takes
Over A Year**