

# MedChi

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TO: The Honorable Joseph F. Vallario, Jr., Chair  
Members, House Judiciary Committee  
The Honorable Jill Carter

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

DATE: March 5, 2014

RE: **OPPOSE** – House Bill 996 – *Admissibility of Writings or Records of Health Care Providers*

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The Maryland State Medical Society (MedChi), which represents more than 8,000 Maryland physicians and their patients, opposes House Bill 996.

House Bill 996 amends the current provision of the Courts and Judicial Proceedings article which allows a doctor's record to be introduced in court without the doctor being required to be present to testify. The present law was designed to allow doctor's billing records and medical notes to be introduced into evidence without the necessity of subpoenaing the doctor to identify his notes and billing records. However, this relaxation of the normal evidentiary standard may not be applied to a medical malpractice case. House Bill 996 deletes this exception with the result that a doctor could be sued and his notes could be introduced in the plaintiff's case without the benefit of his testimony.

If the plaintiff's attorney felt that the doctor's testimony and notes were critical to carrying the burden of proof, he could call the defendant doctor as an adverse witness in the plaintiff's case. In that way, the doctor could provide context for any statement made in his or her notes. It appears that the purpose of House Bill 996 would be to allow the doctor's notes – standing by themselves – to make the plaintiff's case against the defendant doctor while the doctor in question is actually in the courtroom.

The existing law was designed to use evidentiary rules for the proof of relatively uncontested items such as medical bills. It should not be twisted to allow a doctor's notes to be the "expert" opinion needed by a plaintiff to prove a malpractice case against the doctor. MedChi would respectfully request an unfavorable report.

**For more information call:**

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