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TO: The Honorable Bobby A. Zirkin, Chair
Members, Senate Judicial Proceedings Committee
The Honorable Delores Kelley

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Richard A. Tabuteau

DATE: February 21, 2018

RE: **SUPPORT** – Senate Bill 862 – *Maryland No-Fault Birth Injury Fund*

The Maryland State Medical Society and the Maryland Section of the American Congress of Obstetricians and Gynecologists submit this letter of **support** for Senate Bill 862.

Adequate access to high quality obstetrical care should be a right for all Maryland women. However, rising liability pressures place that access at risk. The size and nature of jury awards in several obstetrical cases in the last few years has caused a number of hospitals to seriously consider closure of their obstetrical services. Similarly, many obstetricians have discontinued delivery of babies, limiting their practices to other gynecological and obstetrical services out of concern for their liability exposure and the cost of malpractice insurance. While the liability climate in Maryland is challenging for the practice of medicine generally, it is extremely problematic for the delivery of obstetrical services. Senate Bill 862 proposes an alternative legal structure, a birth injury fund for addressing the most severe birth injury cases by providing a funding source to cover the costs of lifetime care and related compensation for families and their babies who suffer severe birth injuries, based on the injury itself, not the outcome of a lawsuit or the assessment of liability.

The Maryland Birth Injury Fund, as proposed in Senate Bill 862, is modeled after similar programs in Florida and Virginia, utilizing their experience over more than two decades to craft a Maryland specific model that draws on the best of both systems, including a funding mechanism built into hospital's rates, thereby creating a sustainable and equitable source of revenue to ensure the needs of injured children and their families can be met, while concurrently stabilizing the liability risk for obstetricians and hospitals.

Birth injuries can occur even under circumstances where the highest quality of care was delivered. They are among the most expensive and devastating injuries that occur, regardless of the basis for their occurrence. Creating a no-fault system as reflected in the proposed Maryland Birth Injury Fund will provide a fair and equitable approach to promptly and comprehensively ensure that these infants and their families receive the care they need and deserve. The objectives of this legislation align with the State's objectives to ensure access to high quality medical care for all Marylanders. Maryland's looming obstetrical access crisis must be averted. Passage of Senate Bill 862 provides a pathway to that objective. A favorable report is requested.

For more information call:

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