TO: The Honorable Peter A. Hammen, Chairman
    Members, Health and Government Operations Committee
    The Honorable Eric M. Bromwell

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

DATE: February 15, 2011

RE: SUPPORT IF AMENDED – House Bill 166– *Maryland Health Benefit
    Exchange Act of 2011*
    SUPPORT – House Bill 516 – *Health Benefit Exchanges – Establishment and
    Operations*

The Maryland State Medical Society (MedChi), which represents over 7,300
Maryland physicians and their patients, supports House Bill 516 and House Bill 166 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. House Bill 166 creates the Exchange as a unit of state government (page 8,
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. House Bill 166 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 House
Bill 166, 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 House Bill 516 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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