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

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.

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