TO: The Honorable Paul G. Pinsky, Chair
       Members, Senate Education, Health, and Environmental Affairs Committee
       The Honorable Brian J. Feldman

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

DATE: March 13, 2019

RE: LETTER OF INFORMATION – Senate Bill 909 – Health Care Practitioners –
      Medical Examinations on Anesthetized or Unconscious Patients

The Maryland State Medical Society (MedChi), the largest physician organization in
Maryland, submits this letter of information on Senate Bill 909.

This legislation would prohibit any health care practitioner or medical student from
performing a pelvic, prostate, or rectal examination on a patient who is under anesthesia or
unconscious, unless informed consent was obtained; the exam is within the “scope” of care for
the patient; or the patient is unconscious and the exam is required for diagnostic or treatment
purposes. Obtaining informed consent prior to conducting these procedures is already the law in
on a physician a duty to disclose material information that a physician knows or ought to know
would be significant to a reasonable person in the patient's position in deciding whether or not to
submit to a particular medical treatment or procedure.”). Because a failure to obtain informed
consent is already a violation of the law, MedChi questions the need to codify the practice of
medicine in this manner.

Nevertheless, MedChi does not oppose Senate Bill 909, but asks that it be amended to
conform to the House Bill, as follows:

- On page 2, at line 8, strike “scope” and insert “standard”. This reflects the terminology
  used in the physician statute. See Health Occ. §14-404(a)(22).

Thank you for your consideration of this information, and of our proposed amendments.

For more information call:
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