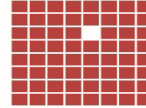




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TO: The Honorable Shane E. Pendergrass, Chair
Members, House Health and Government Operations Committee
The Honorable Delores G. Kelley

FROM: J. Steven Wise
Pamela Metz Kasemeyer
Danna L. Kauffman
Christine K. Krone

DATE: March 22, 2022

RE: **SUPPORT WITH AMENDMENT** – Senate Bill 159 – *Health Occupations – Authorized Prescribers – Reporting of Financial Gratuities or Incentives*

The Maryland State Medical Society (MedChi) and the Maryland Chapter of the American College of Emergency Physicians (MDACEP) **support with amendment** Senate Bill 159.

Senate Bill 159, as amended by the Senate, addresses the principal concern that physicians had with the bill as it was introduced. Originally the bill would have required physicians to report the same information that is already provided on the federal open payments database, found at <https://openpaymentsdata.cms.gov/>. The federal database lists anything valued at \$11 or more that has been provided to a physician by a pharmaceutical distributor or manufacturer. As amended, the legislation requires that patients be provided access to this information through the physician profile already maintained on the Board of Physicians’ website. This amendment eliminates the redundant reporting that MedChi and MDACEP were concerned with.

However, one other issue should also be addressed in our view. Under the bill as amended by the Senate, a physician that has received a “cumulative amount of \$5,000” in a year must be the subject of review by the Board, including their prescribing history and patterns. The bill implies that the Board would need to subpoena all the prescriptions written by the physician over the prior year, an unnecessarily heavy burden on the physician and Board staff. This volume of information may not be necessary for the Board to uncover the type of behavior sought by the bill. Indeed, the Board typically randomly selects a certain number of cases when presented with a complaint, and that randomized approach should be able to be utilized here as well. **Language should be added to ensure that any subpoena issued pursuant to this authority is not “too indefinite or overbroad”, the current legal standard for administrative subpoenas.** See Morrill v. MD Board of Physicians, 234 Md. App. 640 (2019).

Finally, it should be noted that even without this legislation, if the Board of Physicians determines that a physician is prescribing excessive amounts of medication while also taking financial gratuities from a manufacturer, there are existing disciplinary grounds to address this. See Health Occ's, §14-404(a)(10), (a)(19) and (a)(27).

For these reasons, MedChi and MDACEP support Senate Bill 159 with the amendment set forth above.

For more information call:

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