



The Maryland State Medical Society

1211 Cathedral Street
Baltimore, MD 21201-5516
410.539.0871
Fax: 410.547.0915

1.800.492.1056

www.medchi.org

TO: The Honorable Peter A. Hammen, Chairman
Members, Health & Government Operations Committee
The Honorable Gerron S. Levi

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

DATE: March 7, 2008

RE: **SUPPORT** – House Bill 1124 – *Task Force on Administrative Compensation for Birth-Related Neurological Injury*

The Maryland State Medical Society (MedChi) which represents over 7,200 Maryland physicians and their patients supports House Bill 1124.

House Bill 1124 establishes a broad based task force for the purpose of studying a different compensation system for birth related neurological injuries. Every medical malpractice expert agrees that “bad baby” cases cause a disproportionate stress on the medical malpractice tort system since a serious birth related injury has profound economic effects and can result in huge malpractice verdicts. The jury sympathy for an injured child is substantial. Many of the ills of the present malpractice system can also occur in these cases where a verdict – while astronomical – may not be wisely spent with the result that the child enters adulthood without adequate economic support. Moreover, it is increasingly conceded that many birth related injuries are not the result of malpractice by an OB/GYN or the hospital birthing team but rather an injury that could not have been avoided. The present malpractice system does a poor job of identifying such cases and discourages a doctor or hospital from “gambling” in an attempt to prove that there was no negligence.

The present system discourages medical students from entering an obstetrics specialty as malpractice premiums for OB/GYNs are prohibitive. MedChi supports House Bill 1124 in that it believes that a different system for birth related injuries may benefit not only the availability of OB/GYNs in the future but have positive effects on the malpractice system by removing a subset of cases which are most troublesome.

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MedChi would note, however, that the Task Force's report dates should be accelerated since the current state financed subsidy for physicians ends in 2008 and one reform (stopping "cap" dollar escalation) enacted in the 2005 Special Session relating to medical malpractice expires in 2009.

For more information call:

Joseph A. Schwartz, III
Pamela Metz Kasemeyer
J. Steven Wise
410-269-1618