

HOUSE BILL 1296

J2

(3lr2955)

ENROLLED BILL

— *Health and Government Operations/Education, Health, and Environmental Affairs* —

Introduced by **Delegates Cullison and Frank**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Board of Physicians – Quasi-Judicial Powers *and the Board of Review* –**
3 **~~Revision~~ *Revisions***

4 FOR the purpose of authorizing the State Board of Physicians to issue a cease and
5 desist order or obtain injunctive relief against an individual for taking any
6 action ~~that may be~~ for which the Board determines there is a preponderance of
7 evidence of grounds for discipline under a certain provision of law and that
8 poses a certain risk to a patient; requiring the Board to adopt certain
9 regulations to carry out a certain provision of law; *repealing the authority for*
10 *certain persons to appeal certain decisions to the Board of Review, followed by a*
11 *certain appeal; specifying that certain persons may take certain judicial appeals;*
12 and generally relating to the ~~quasi-judicial powers of the~~ State Board of
13 Physicians.

14 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Article – Health Occupations
2 Section 14–206 *and 14–408*
3 Annotated Code of Maryland
4 (2009 Replacement Volume and 2012 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Health Occupations**

8 14–206.

9 (a) Over the signature of an officer, the executive director, or the deputy
10 director of the Board, the Board may issue subpoenas and administer oaths in
11 connection with any investigation under this title and any hearings or proceedings
12 before it.

13 (b) If, without lawful excuse, a person disobeys a subpoena from the Board or
14 an order by the Board to take an oath or to testify or answer a question, then, on
15 petition of the Board, a court of competent jurisdiction may punish the person as for
16 contempt of court.

17 (c) If after due notice the individual against whom the action is
18 contemplated fails or refuses to appear, nevertheless the Board may hear and
19 determine the matter.

20 (d) (1) If the entry is necessary to carry out a duty under this title, the
21 Board's executive director or other duly authorized agent or investigator of the Board
22 may enter at any reasonable hour:

23 (i) A place of business of a licensed physician;

24 (ii) Private premises where the Board suspects that a person
25 who is not licensed by the Board is practicing, attempting to practice, or offering to
26 practice medicine, based on a formal complaint; or

27 (iii) Public premises.

28 (2) A person may not deny or interfere with an entry under this
29 subsection.

30 (3) A person who violates any provision of this subsection is guilty of a
31 misdemeanor and on conviction is subject to a fine not exceeding \$100.

32 (e) The Board may issue a cease and desist order or obtain injunctive relief
33 AGAINST AN INDIVIDUAL for [practicing]:

1 (1) PRACTICING medicine without a license; OR

2 (2) TAKING ANY ACTION ~~THAT~~:

3 (i) ~~MAY BE~~ FOR WHICH THE BOARD DETERMINES THERE IS
 4 A PREPONDERANCE OF EVIDENCE OF GROUNDS FOR DISCIPLINE UNDER §
 5 14-404 OF THIS TITLE; AND

6 (ii) ~~POSES~~ THAT POSES A SERIOUS RISK TO THE HEALTH,
 7 SAFETY, AND WELFARE OF A PATIENT.

8 (F) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THE
 9 PROVISIONS OF THIS SECTION, INCLUDING HEARING PROCEDURES AND
 10 SANCTIONS FOR NONCOMPLIANCE WITH A CEASE AND DESIST ORDER.

11 14-408.

12 (a) [Except as provided in this section for an action under § 14-404 of this
 13 subtitle or § 14-5A-17 of this title, any person aggrieved by a final decision of the
 14 Board in a contested case, as defined in the Administrative Procedure Act, may:

15 (1) Appeal that decision to the Board of Review; and

16 (2) Then take any further appeal allowed by the Administrative
 17 Procedure Act.

18 (b) (1) Any person aggrieved by a final decision of the Board IN A
 19 CONTESTED CASE, AS DEFINED IN THE ADMINISTRATIVE PROCEDURE ACT,
 20 [under § 14-404 of this subtitle or § 14-5A-17 of this title may not appeal to the
 21 Secretary or Board of Review but] may take a direct judicial appeal.

22 (2) The appeal shall be made as provided for judicial review of final
 23 decisions in the Administrative Procedure Act.

24 ~~[(c)] (B)~~ An order of the Board may not be stayed pending review.

25 ~~[(d)] (C)~~ The Board may appeal from any decision that reverses or modifies
 26 its order.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 28 October 1, 2013.