

# HOUSE BILL 1313

J2

EMERGENCY BILL  
ENROLLED BILL

(3lr2644)

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

Introduced by **Delegate Cullison**

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 – Consultation, Qualification for Licensure,**  
3 **License Renewal, and Representation to the Public**

4 FOR the purpose of authorizing certain physicians engaged in certain consultations to  
5 practice medicine without a license from the State Board of Physicians under  
6 certain circumstances; authorizing certain applicants to qualify for licensure  
7 under certain circumstances; requiring the Board to send certain notices and  
8 certain data sheets to certain licensees by certain means; making certain  
9 stylistic changes; prohibiting certain physicians from making certain  
10 representations unless the physician is board certified; defining certain terms;  
11 making this Act an emergency measure; and generally relating to the licensure  
12 of physicians in the State.

13 BY renumbering

---

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 14–101(c) through (o), respectively  
 3 to be Section 14–101(d) through (p), respectively  
 4 Annotated Code of Maryland  
 5 (2009 Replacement Volume and 2012 Supplement)

6 BY adding to  
 7 Article – Health Occupations  
 8 Section 14–101(c), 14–101.1, and 14–302.1  
 9 Annotated Code of Maryland  
 10 (2009 Replacement Volume and 2012 Supplement)

11 BY repealing and reenacting, with amendments,  
 12 Article – Health Occupations  
 13 Section 14–302, 14–307, 14–316(b), 14–401(e)(2)(i), 14–503, and 14–5C–06(a)(2)  
 14 Annotated Code of Maryland  
 15 (2009 Replacement Volume and 2012 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 17 MARYLAND, That Section(s) 14–101(c) through (o), respectively, of Article – Health  
 18 Occupations of the Annotated Code of Maryland be renumbered to be Section(s)  
 19 14–101(d) through (p), respectively.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 21 read as follows:

22 **Article – Health Occupations**

23 14–101.

24 **(C) “BOARD CERTIFIED” MEANS THE PHYSICIAN IS CERTIFIED BY A**  
 25 **PUBLIC OR PRIVATE BOARD, INCLUDING A MULTIDISCIPLINARY BOARD, AND**  
 26 **THE CERTIFYING BOARD:**

27 **(1) IS:**

28 **(I) A MEMBER OF THE AMERICAN BOARD OF MEDICAL**  
 29 **SPECIALTIES; OR**

30 **(II) AN AMERICAN OSTEOPATHIC ASSOCIATION**  
 31 **CERTIFYING BOARD;**

32 **(2) HAS BEEN APPROVED BY THE BOARD UNDER § 14–101.1 OF**  
 33 **THIS SUBTITLE; OR**

1           **(3) REQUIRES THAT, IN ORDER TO BE CERTIFIED, THE**  
2 **PHYSICIAN:**

3                   **(I) COMPLETE A POSTGRADUATE TRAINING PROGRAM**  
4 **THAT:**

5                           **1. PROVIDES COMPLETE TRAINING IN THE**  
6 **SPECIALTY OR SUBSPECIALTY; AND**

7                           **2. IS ACCREDITED BY THE ACCREDITATION**  
8 **COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN**  
9 **OSTEOPATHIC ASSOCIATION; AND**

10                           **(II) BE CERTIFIED BY THE MEMBER BOARD OF THE**  
11 **AMERICAN BOARD OF MEDICAL SPECIALTIES OR THE AMERICAN**  
12 **OSTEOPATHIC ASSOCIATION IN THE TRAINING FIELD.**

13 **14-101.1.**

14           **THE BOARD MAY APPROVE A PUBLIC OR PRIVATE BOARD INCLUDING A**  
15 **MULTIDISCIPLINARY BOARD AS A CERTIFYING BOARD ONLY IF THE CERTIFYING**  
16 **BOARD REQUIRES THAT, IN ORDER TO BE CERTIFIED, A PHYSICIAN:**

17                   **(1) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:**

18                           **(I) PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR**  
19 **SUBSPECIALTY BEING CERTIFIED; AND**

20                           **(II) IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR**  
21 **GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPTHIC**  
22 **ASSOCIATION; AND**

23                           **(2) BE CERTIFIED BY THE AMERICAN BOARD OF MEDICAL**  
24 **SPECIALTIES OR THE AMERICAN OSTEOPTHIC ASSOCIATION IN THE SAME**  
25 **TRAINING FIELD.**

26 **14-302.**

27           Subject to the rules, regulations, and orders of the Board, the following  
28 individuals may practice medicine without a license:

29                   (1) A medical student or an individual in a postgraduate medical  
30 training program that is approved by the Board, while doing the assigned duties at  
31 any office of a licensed physician, hospital, clinic, or similar facility;

1 (2) A physician licensed by and residing in another jurisdiction, [while  
2 engaging in consultation with a physician licensed in this State;] **IF THE PHYSICIAN:**

3 (I) **IS ENGAGED IN CONSULTATION WITH A PHYSICIAN  
4 LICENSED IN THE STATE ABOUT A PARTICULAR PATIENT AND DOES NOT DIRECT  
5 PATIENT CARE; OR**

6 (II) **MEETS THE REQUIREMENTS OF § 14-302.1 OF THIS  
7 SUBTITLE;**

8 (3) A physician employed in the service of the federal government  
9 while performing the duties incident to that employment;

10 (4) A physician who resides in and is authorized to practice medicine  
11 by any state adjoining this State and whose practice extends into this State, if:

12 (i) The physician does not have an office or other regularly  
13 appointed place in this State to meet patients; and

14 (ii) The same privileges are extended to licensed physicians of  
15 this State by the adjoining state; and

16 (5) An individual while under the supervision of a licensed physician  
17 who has specialty training in psychiatry, and whose specialty training in psychiatry  
18 has been approved by the Board, if the individual submits an application to the Board  
19 on or before October 1, 1993, and either:

20 (i) 1. Has a master's degree from an accredited college or  
21 university; and

22 2. Has completed a graduate program accepted by the  
23 Board in a behavioral science that includes 1,000 hours of supervised clinical  
24 psychotherapy experience; or

25 (ii) 1. Has a baccalaureate degree from an accredited college  
26 or university; and

27 2. Has 4,000 hours of supervised clinical experience that  
28 is approved by the Board.

29 **14-302.1.**

30 **A PHYSICIAN WHO IS LICENSED AND RESIDES IN ANOTHER JURISDICTION  
31 MAY PRACTICE MEDICINE WITHOUT A LICENSE WHILE ENGAGED IN CLINICAL  
32 TRAINING WITH A LICENSED PHYSICIAN IF:**

1           **(1) THE BOARD FINDS, ON APPLICATION BY A HOSPITAL IN THE**  
2 **STATE, THAT:**

3                   **(I) THE PHYSICIAN POSSESSES A SKILL OR USES A**  
4 **PROCEDURE THAT:**

5                           **1. IS ADVANCED BEYOND THOSE SKILLS OR**  
6 **PROCEDURES NORMALLY TAUGHT OR EXERCISED IN THE HOSPITAL AND IN**  
7 **STANDARD MEDICAL EDUCATION OR TRAINING;**

8                           **2. COULD NOT BE OTHERWISE CONVENIENTLY**  
9 **TAUGHT OR DEMONSTRATED IN STANDARD MEDICAL EDUCATION OR TRAINING**  
10 **IN THAT HOSPITAL; AND**

11                           **3. IS LIKELY TO BENEFIT MARYLAND PATIENTS IN**  
12 **THIS INSTANCE;**

13                   **(II) THE DEMONSTRATION OF THE SKILL OR PROCEDURE**  
14 **WOULD TAKE NO MORE THAN 14 ~~DAYS~~ CONSECUTIVE DAYS WITHIN A CALENDAR**  
15 **YEAR;**

16                   **(III) A LICENSED PHYSICIAN WHO PRACTICES AT A HOSPITAL**  
17 **IN THE STATE HAS CERTIFIED TO THE BOARD THAT THE LICENSED PHYSICIAN**  
18 **WILL BE RESPONSIBLE FOR THE MEDICAL CARE PROVIDED BY THAT VISITING**  
19 **PHYSICIAN TO PATIENTS IN THE STATE;**

20                   **(IV) THE VISITING PHYSICIAN HAS NO HISTORY OF ANY**  
21 **MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY, NATION, OR**  
22 **ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE**  
23 **VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL**  
24 **MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;**

25                   **(V) THE PHYSICIAN IS COVERED BY MALPRACTICE**  
26 **INSURANCE IN THE JURISDICTION IN WHICH THE PHYSICIAN PRACTICES; AND**

27                   **(VI) THE HOSPITAL ASSURES THE BOARD THAT THE**  
28 **PATIENTS WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE; OR**

29           **(2) THE BOARD FINDS, ON APPLICATION BY A MARYLAND**  
30 **HOSPITAL, THAT:**

31                   **(I) THE HOSPITAL PROVIDES TRAINING IN A SKILL OR USES**  
32 **A PROCEDURE THAT:**

1                   1.    IS ADVANCED BEYOND THOSE SKILLS OR  
2 PROCEDURES NORMALLY TAUGHT OR EXERCISED IN STANDARD MEDICAL  
3 EDUCATION OR TRAINING;

4                   2.    COULD NOT BE OTHERWISE CONVENIENTLY  
5 TAUGHT OR DEMONSTRATED IN THE VISITING PHYSICIAN'S PRACTICE; AND

6                   3.    IS LIKELY TO BENEFIT MARYLAND PATIENTS IN  
7 THIS INSTANCE;

8                   (II) THE DEMONSTRATION OR EXERCISE OF THE SKILL OR  
9 PROCEDURE WILL TAKE NO MORE THAN 14 ~~DAYS~~ CONSECUTIVE DAYS WITHIN A  
10 CALENDAR YEAR;

11                  (III) A HOSPITAL PHYSICIAN LICENSED IN THE STATE HAS  
12 CERTIFIED TO THE BOARD THAT THE PHYSICIAN WILL BE RESPONSIBLE FOR  
13 THE MEDICAL CARE PROVIDED BY THAT VISITING PHYSICIAN TO PATIENTS IN  
14 THE STATE;

15                  (IV) THE VISITING PHYSICIAN HAS NO HISTORY OF ANY  
16 MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY, NATION, OR  
17 ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE  
18 VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL  
19 MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;

20                  (V) THE PHYSICIAN IS COVERED BY MALPRACTICE  
21 INSURANCE IN THE JURISDICTION WHERE THE PHYSICIAN PRACTICES; AND

22                  (VI) THE HOSPITAL ASSURES THE BOARD THAT THE  
23 PATIENTS WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE.

24 14-307.

25           (a)    To qualify for a license, an applicant shall be an individual who meets the  
26 requirements of this section.

27           (b)    The applicant shall be of good moral character.

28           (c)    The applicant shall be at least 18 years old.

29           (d)    Except as provided in § 14-308 of this subtitle, the applicant shall:

30                   (1)   (i)    Have a degree of doctor of medicine from a medical school  
31 that is accredited by an accrediting organization that the Board recognizes in its  
32 regulations; and

1 (ii) Submit evidence acceptable to the Board of successful  
 2 completion of 1 year of training in a postgraduate medical training program that is  
 3 accredited by an accrediting organization that the Board recognizes in its regulations;  
 4 or

5 (2) (i) Have a degree of doctor of osteopathy from a school of  
 6 osteopathy in the United States, its territories or possessions, Puerto Rico, or Canada  
 7 that has standards for graduation equivalent to those established by the American  
 8 Osteopathic Association; and

9 (ii) Submit evidence acceptable to the Board of successful  
 10 completion of 1 year of training in a postgraduate medical training program accredited  
 11 by an accrediting organization that the Board recognizes in its regulations.

12 (e) Except as otherwise provided in this title, the applicant shall pass an  
 13 examination required by the Board under this subtitle.

14 (f) The applicant shall meet any other qualifications that the Board  
 15 establishes in its regulations for license applicants.

16 (g) An applicant who has failed the examination or any part of the  
 17 examination 3 or more times [shall submit evidence of having completed 1 year of  
 18 additional clinical training in an approved postgraduate training program following  
 19 the latest failure] **MAY QUALIFY FOR A LICENSE IF THE APPLICANT:**

20 **(1) HAS SUCCESSFULLY COMPLETED 2 OR MORE YEARS OF A**  
 21 **RESIDENCY OR FELLOWSHIP ACCREDITED BY THE ACCREDITATION COUNCIL**  
 22 **ON GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC**  
 23 **ASSOCIATION;**

24 **(2) (I) HAS A MINIMUM OF 5 YEARS OF CLINICAL PRACTICE OF**  
 25 **MEDICINE ~~IN:~~**

26 **1. IN THE UNITED STATES OR IN CANADA, ~~WITH;~~**

27 **2. WITH AT LEAST 3 OF THE 5 YEARS HAVING**  
 28 **OCCURRED WITHIN 5 YEARS OF THE DATE OF THE APPLICATION; AND**

29 **~~(H) THE CLINICAL PRACTICE REQUIRED UNDER ITEM (I) OF~~**  
 30 **~~THIS PARAGRAPH OCCURRED~~**

31 **3. THAT OCCURRED UNDER A FULL UNRESTRICTED**  
 32 **LICENSE TO PRACTICE MEDICINE; AND**

1                                   ~~(H)~~ **(II)**    ~~NO~~ HAS NO DISCIPLINARY ACTION ~~IS~~ PENDING ~~OR~~  
 2 ~~HAS BEEN~~ AND HAS HAD NO DISCIPLINARY ACTION TAKEN AGAINST THE  
 3 APPLICANT THAT WOULD BE GROUNDS FOR DISCIPLINE UNDER § 14-404 OF  
 4 THIS TITLE; OR

5                                   **(3)**    **IS BOARD CERTIFIED.**

6           (h)   (1)   The Board shall require as part of its examination or licensing  
 7 procedures that an applicant for a license to practice medicine demonstrate an oral  
 8 competency in the English language.

9                                   (2)    Graduation from a recognized English-speaking undergraduate  
 10 school or high school, including General Education Development (GED), after at least  
 11 3 years of enrollment, or from a recognized English-speaking professional school is  
 12 acceptable as proof of proficiency in the oral communication of the English language  
 13 under this section.

14                                  (3)    By regulation, the Board shall develop a procedure for testing  
 15 individuals who because of their speech impairment are unable to complete  
 16 satisfactorily a Board approved standardized test of oral competency.

17                                  (4)    If any disciplinary charges or action that involves a problem with  
 18 the oral communication of the English language are brought against a licensee under  
 19 this title, the Board shall require the licensee to take and pass a Board approved  
 20 standardized test of oral competency.

21   14-316.

22           (b)   **(1)**   ~~At~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT least  
 23 1 month before the license expires, the Board shall send to the licensee, by  
 24 **ELECTRONIC OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL**  
 25 address of the licensee:

26                                  ~~(i)~~   **(I)**    A renewal notice that states:

27   ~~(i)~~    **1.**    The date on which the current license expires;

28   ~~(ii)~~   **2.**    The date by which the renewal application must be  
 29 received by the Board for the renewal to be issued and mailed before the license  
 30 expires; and

31   ~~(iii)~~   **3.**    The amount of the renewal fee; and

32   ~~(2)~~   **(II)**   A blank panel data sheet supplied by the Health Care  
 33 Alternative Dispute Resolution Office.



1                   **(2) IF THE BOARD CHOOSES TO SEND RENEWAL NOTICES**  
 2 **EXCLUSIVELY BY ELECTRONIC MAIL UNDER PARAGRAPH (1) OF THIS**  
 3 **SUBSECTION, THE BOARD SHALL SEND A RENEWAL NOTICE BY FIRST-CLASS**  
 4 **MAIL TO A LICENSEE ON REQUEST OF THE LICENSEE.**

5 14-401.

6           (e)   (2)   A peer reviewer shall:

7                   (i)   Be [Board] **BOARD** certified;

8 14-503.

9           (a)   A physician may not represent to the public that the physician is  
 10 [certified by a public or private board, including a multidisciplinary board, or that the  
 11 physician is] board certified unless:

12                   **(1) THE PHYSICIAN IS BOARD CERTIFIED; AND**

13                   **[(1) (2)**   The physician discloses the full name of the board from  
 14 which the physician is certified and the name of the specialty or subspecialty in which  
 15 the physician is certified]; and

16                   (2)   The certifying board meets one of the following requirements:

17                   (i)   The certifying board is:

18                                   1.   A member of the American Board of Medical  
 19 Specialties; or

20                                   2.   An American Osteopathic Association certifying  
 21 board;

22                   (ii)   The certifying board has been approved by the Board; or

23                   (iii)   The certifying board requires that, in order to be certified,  
 24 the physician:

25                                   1.   Complete a postgraduate training program that:

26   A.   Provides complete training in the specialty or  
 27 subspecialty; and

28   B.   Is accredited by the Accreditation Council for  
 29 Graduate Medical Education or the American Osteopathic Association; and

1                                   2.     Be certified by the member board of the American  
2 Board of Medical Specialties or the American Osteopathic Association in the training  
3 field.

4           (b)     The Board may approve a certifying board under subsection (a)(2)(ii) of  
5 this section only if the certifying board requires that, in order to be certified, the  
6 physician:

7                   (1)     Complete a postgraduate training program that:

8                                   (i)     Provides complete training in the specialty or subspecialty  
9 being certified; and

10                                  (ii)     Is accredited by the Accreditation Council for Graduate  
11 Medical Education or the American Osteopathic Association; and

12                   (2)     Be certified by the American Board of Medical Specialties or  
13 American Osteopathic Association in the same training field].

14           **[(c)] (B)**     A physician may advertise only as permitted by the rules and  
15 regulations of the Board and subject to subsection (a) of this section.

16 14-5C-06.

17           (a)     The Committee consists of seven members appointed by the Board as  
18 follows:

19                   (2)     Three physicians who are **[Board] BOARD** certified in sleep  
20 medicine:

21                                   (i)     One of whom is a specialist in psychiatry or internal  
22 medicine;

23                                   (ii)     One of whom is a specialist in pulmonary medicine; and

24                                   (iii)    One of whom is a specialist in neurology; and

25           SECTION 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect~~  
26 ~~October 1, 2013~~ is an emergency measure, is necessary for the immediate preservation  
27 of the public health or safety, has been passed by a yea and nay vote supported by  
28 three-fifths of all the members elected to each of the two Houses of the General  
29 Assembly, and shall take effect from the date it is enacted.