

HOUSE BILL 1313

J2

EMERGENCY BILL

3lr2644

By: **Delegate Cullison**

Introduced and read first time: February 8, 2013

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2013

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

14 Article – Health Occupations
15 Section 14–101(c) through (o), respectively
16 to be Section 14–101(d) through (p), respectively
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2012 Supplement)

19 BY adding to

20 Article – Health Occupations
21 Section 14–101(c), 14–101.1, and 14–302.1
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2012 Supplement)

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.



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

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That Section(s) 14–101(c) through (o), respectively, of Article – Health
8 Occupations of the Annotated Code of Maryland be renumbered to be Section(s)
9 14–101(d) through (p), respectively.

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

12 **Article – Health Occupations**

13 14–101.

14 **(C) “BOARD CERTIFIED” MEANS THE PHYSICIAN IS CERTIFIED BY A**
15 **PUBLIC OR PRIVATE BOARD, INCLUDING A MULTIDISCIPLINARY BOARD, AND**
16 **THE CERTIFYING BOARD:**

17 **(1) IS:**

18 **(I) A MEMBER OF THE AMERICAN BOARD OF MEDICAL**
19 **SPECIALTIES; OR**

20 **(II) AN AMERICAN OSTEOPATHIC ASSOCIATION**
21 **CERTIFYING BOARD;**

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

24 **(3) REQUIRES THAT, IN ORDER TO BE CERTIFIED, THE**
25 **PHYSICIAN:**

26 **(I) COMPLETE A POSTGRADUATE TRAINING PROGRAM**
27 **THAT:**

28 **1. PROVIDES COMPLETE TRAINING IN THE**
29 **SPECIALTY OR SUBSPECIALTY; AND**

1 **2. IS ACCREDITED BY THE ACCREDITATION**
2 **COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN**
3 **OSTEOPATHIC ASSOCIATION; AND**

4 **(II) BE CERTIFIED BY THE MEMBER BOARD OF THE**
5 **AMERICAN BOARD OF MEDICAL SPECIALTIES OR THE AMERICAN**
6 **OSTEOPATHIC ASSOCIATION IN THE TRAINING FIELD.**

7 **14-101.1.**

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

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

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

14 **(II) IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR**
15 **GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC**
16 **ASSOCIATION; AND**

17 **(2) BE CERTIFIED BY THE AMERICAN BOARD OF MEDICAL**
18 **SPECIALTIES OR THE AMERICAN OSTEOPATHIC ASSOCIATION IN THE SAME**
19 **TRAINING FIELD.**

20 **14-302.**

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

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

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

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

31 **(II) MEETS THE REQUIREMENTS OF § 14-302.1 OF THIS**
32 **SUBTITLE;**

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

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

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

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

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

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

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

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

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

22 **14-302.1.**

23 **A PHYSICIAN WHO IS LICENSED AND RESIDES IN ANOTHER JURISDICTION**
24 **MAY PRACTICE MEDICINE WITHOUT A LICENSE WHILE ENGAGED IN CLINICAL**
25 **TRAINING WITH A LICENSED PHYSICIAN IF:**

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

28 **(I) THE PHYSICIAN POSSESSES A SKILL OR USES A**
29 **PROCEDURE THAT:**

30 **1. IS ADVANCED BEYOND THOSE SKILLS OR**
31 **PROCEDURES NORMALLY TAUGHT OR EXERCISED IN THE HOSPITAL AND IN**
32 **STANDARD MEDICAL EDUCATION OR TRAINING;**

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

4 3. **IS LIKELY TO BENEFIT MARYLAND PATIENTS IN**
5 **THIS INSTANCE;**

6 (ii) **THE DEMONSTRATION OF THE SKILL OR PROCEDURE**
7 **WOULD TAKE NO MORE THAN 14 ~~DAYS~~ CONSECUTIVE DAYS WITHIN A CALENDAR**
8 **YEAR;**

9 (iii) **A LICENSED PHYSICIAN WHO PRACTICES AT A HOSPITAL**
10 **IN THE STATE HAS CERTIFIED TO THE BOARD THAT THE LICENSED PHYSICIAN**
11 **WILL BE RESPONSIBLE FOR THE MEDICAL CARE PROVIDED BY THAT VISITING**
12 **PHYSICIAN TO PATIENTS IN THE STATE;**

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

18 (v) **THE PHYSICIAN IS COVERED BY MALPRACTICE**
19 **INSURANCE IN THE JURISDICTION IN WHICH THE PHYSICIAN PRACTICES; AND**

20 (vi) **THE HOSPITAL ASSURES THE BOARD THAT THE**
21 **PATIENTS WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE; OR**

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

24 (i) **THE HOSPITAL PROVIDES TRAINING IN A SKILL OR USES**
25 **A PROCEDURE THAT:**

26 1. **IS ADVANCED BEYOND THOSE SKILLS OR**
27 **PROCEDURES NORMALLY TAUGHT OR EXERCISED IN STANDARD MEDICAL**
28 **EDUCATION OR TRAINING;**

29 2. **COULD NOT BE OTHERWISE CONVENIENTLY**
30 **TAUGHT OR DEMONSTRATED IN THE VISITING PHYSICIAN'S PRACTICE; AND**

31 3. **IS LIKELY TO BENEFIT MARYLAND PATIENTS IN**
32 **THIS INSTANCE;**

1 **(II) THE DEMONSTRATION OR EXERCISE OF THE SKILL OR**
2 **PROCEDURE WILL TAKE NO MORE THAN 14 ~~DAYS~~ CONSECUTIVE DAYS WITHIN A**
3 **CALENDAR YEAR;**

4 **(III) A HOSPITAL PHYSICIAN LICENSED IN THE STATE HAS**
5 **CERTIFIED TO THE BOARD THAT THE PHYSICIAN WILL BE RESPONSIBLE FOR**
6 **THE MEDICAL CARE PROVIDED BY THAT VISITING PHYSICIAN TO PATIENTS IN**
7 **THE STATE;**

8 **(IV) THE VISITING PHYSICIAN HAS NO HISTORY OF ANY**
9 **MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY, NATION, OR**
10 **ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE**
11 **VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL**
12 **MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;**

13 **(V) THE PHYSICIAN IS COVERED BY MALPRACTICE**
14 **INSURANCE IN THE JURISDICTION WHERE THE PHYSICIAN PRACTICES; AND**

15 **(VI) THE HOSPITAL ASSURES THE BOARD THAT THE**
16 **PATIENTS WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE.**

17 14–307.

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

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

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

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

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

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

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

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

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

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

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

12 **(1) HAS SUCCESSFULLY COMPLETED 2 OR MORE YEARS OF A**
13 **RESIDENCY OR FELLOWSHIP ACCREDITED BY THE ACCREDITATION COUNCIL**
14 **ON GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC**
15 **ASSOCIATION;**

16 **(2) (I) HAS A MINIMUM OF 5 YEARS OF CLINICAL PRACTICE OF**
17 **MEDICINE IN THE UNITED STATES OR IN CANADA, WITH AT LEAST 3 OF THE 5**
18 **YEARS HAVING OCCURRED WITHIN 5 YEARS OF THE DATE OF THE APPLICATION;**

19 **(II) THE CLINICAL PRACTICE REQUIRED UNDER ITEM (I) OF**
20 **THIS PARAGRAPH OCCURRED UNDER A FULL UNRESTRICTED LICENSE TO**
21 **PRACTICE MEDICINE; AND**

22 **(III) NO DISCIPLINARY ACTION IS PENDING OR HAS BEEN**
23 **TAKEN AGAINST THE APPLICANT; OR**

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

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

28 (2) Graduation from a recognized English-speaking undergraduate
29 school or high school, including General Education Development (GED), after at least
30 3 years of enrollment, or from a recognized English-speaking professional school is
31 acceptable as proof of proficiency in the oral communication of the English language
32 under this section.

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

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

8 14-316.

9 (b) **(1)** ~~At~~ **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT** least
 10 1 month before the license expires, the Board shall send to the licensee, by
 11 **ELECTRONIC OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL**
 12 address of the licensee:

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

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

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

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

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

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

25 14-401.

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

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

28 14-503.

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

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

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

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

6 (i) The certifying board is:

7 1. A member of the American Board of Medical
8 Specialties; or

9 2. An American Osteopathic Association certifying
10 board;

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

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

14 1. Complete a postgraduate training program that:

15 A. Provides complete training in the specialty or
16 subspecialty; and

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

19 2. Be certified by the member board of the American
20 Board of Medical Specialties or the American Osteopathic Association in the training
21 field.

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

25 (1) Complete a postgraduate training program that:

26 (i) Provides complete training in the specialty or subspecialty
27 being certified; and

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

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

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

3 14-5C-06.

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

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

8 (i) One of whom is a specialist in psychiatry or internal
9 medicine;

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.