

Chapter 583

(House Bill 1313)

AN ACT concerning

State Board of Physicians – Consultation, Qualification for Licensure, License Renewal, and Representation to the Public

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

BY renumbering

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

BY adding to

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

BY repealing and reenacting, with amendments,

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

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

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

Article – Health Occupations

14–101.

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

(1) IS:

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

(II) AN AMERICAN OSTEOPATHIC ASSOCIATION CERTIFYING BOARD;

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

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

(I) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

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

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

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

14–101.1.

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

(1) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

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

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

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

14-302.

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

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

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

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

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

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

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

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

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

(5) An individual while under the supervision of a licensed physician who has specialty training in psychiatry, and whose specialty training in psychiatry

has been approved by the Board, if the individual submits an application to the Board on or before October 1, 1993, and either:

- (i) 1. Has a master's degree from an accredited college or university; and
 - 2. Has completed a graduate program accepted by the Board in a behavioral science that includes 1,000 hours of supervised clinical psychotherapy experience; or
- (ii) 1. Has a baccalaureate degree from an accredited college or university; and
 - 2. Has 4,000 hours of supervised clinical experience that is approved by the Board.

14-302.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(IV) THE VISITING PHYSICIAN HAS NO HISTORY OF ANY MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY, NATION, OR

ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;

(v) THE PHYSICIAN IS COVERED BY MALPRACTICE INSURANCE IN THE JURISDICTION WHERE THE PHYSICIAN PRACTICES; AND

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

14-307.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(II) THE CLINICAL PRACTICE REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH OCCURRED~~

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

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

(3) IS BOARD CERTIFIED.

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

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

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

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

14-316.

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

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

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

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

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

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

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

14-401.

(e) (2) A peer reviewer shall:

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

14-503.

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

(1) THE PHYSICIAN IS BOARD CERTIFIED; AND

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

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

(i) The certifying board is:

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

2. An American Osteopathic Association certifying board;

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

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

1. Complete a postgraduate training program that:

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

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

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

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

(1) Complete a postgraduate training program that:

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

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

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

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

14-5C-06.

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

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

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

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

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

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

Approved by the Governor, May 16, 2013.