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**By: Chairman, Economic and Environmental Affairs Committee (Departmental - Health and Mental Hygiene)**

Requested: November 5, 1996

Introduced and read first time: January 8, 1997

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Physician Quality Assurance - Practice of Medicine - "Telemedicine"**

3 FOR the purpose of altering a certain provision of law relating to the practice of medicine  
4 in the State without a license; authorizing the State Board of Physician Quality  
5 Assurance to issue a special purpose license to practice medicine across state lines  
6 through electronic transmission or other specified mechanisms into the State;  
7 specifying the qualifications of an applicant for a special purpose license; requiring  
8 an applicant for a special purpose license to pay a certain application fee;  
9 authorizing certain individuals to practice medicine without a special purpose  
10 license; establishing the term and renewal of a special purpose license; subjecting  
11 the holder of a special purpose license to certain conditions; authorizing the Board  
12 to discipline the holder of a special purpose license; requiring the Board to adopt  
13 certain regulations; altering a certain definition; defining certain terms; and  
14 generally relating to the authority of the Board of Physician Quality Assurance to  
15 issue a special purpose license to practice medicine across state lines through  
16 electronic transmission or other specified mechanisms into the State.

17 BY repealing and reenacting, with amendments,  
18 Article - Health Occupations  
19 Section 14-101(k) and 14-302  
20 Annotated Code of Maryland  
21 (1994 Replacement Volume and 1996 Supplement)

22 BY adding to  
23 Article - Health Occupations  
24 Section 14-322  
25 Annotated Code of Maryland  
26 (1994 Replacement Volume and 1996 Supplement)

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

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1 **Article - Health Occupations**

2 14-101.

3 (k) (1) "Practice medicine" means to engage, with or without compensation, in  
4 medical:

5 (i) Diagnosis;

6 (ii) Healing;

7 (iii) Treatment; or

8 (iv) Surgery.

9 (2) "Practice medicine" includes doing, undertaking, professing to do,  
10 [and] attempting TO DO, OR THROUGH ELECTRONIC TRANSMISSION OR OTHER  
11 MECHANISMS OF INTERSTATE COMMERCE INTO THE STATE, PROVIDING any of the  
12 following:

13 (i) Diagnosing, healing, treating, preventing, prescribing for, or  
14 removing any physical, mental, or emotional ailment or supposed ailment of an  
15 individual:

16 1. By physical, mental, emotional, or other process that is  
17 exercised or invoked by the practitioner, the patient, or both; or

18 2. By appliance, test, drug, operation, or treatment;

19 (ii) Ending of a human pregnancy; and

20 (iii) Performing acupuncture.

21 (3) "Practice medicine" does not include:

22 (i) Selling any nonprescription drug or medicine;

23 (ii) Practicing as an optician; or

24 (iii) Performing a massage or other manipulation by hand, but by no  
25 other means.

26 14-302.

27 (A) IN THIS SECTION, "IRREGULAR OR INFREQUENT" MEANS THAT A  
28 PHYSICIAN'S PRACTICE:

29 (1) INVOLVES NO MORE THAN 10 PATIENTS ON AN ANNUAL BASIS; AND

30 (2) COMPRISES NO MORE THAN 1 PERCENT OF THE PHYSICIAN'S  
31 DIAGNOSTIC OR THERAPEUTIC PRACTICE.

32 (B) Subject to the rules, regulations, and orders of the Board, the following  
33 individuals may practice medicine without a license:

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

4 (2) A physician licensed by and residing in another jurisdiction, while  
5 engaging in consultation ON AN IRREGULAR AND INFREQUENT BASIS with a physician  
6 licensed in this State;

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

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

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

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

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

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

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

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

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

28 14-322.

29 (A) IN THIS SECTION, "SPECIAL PURPOSE LICENSE" MEANS A LICENSE ISSUED  
30 BY THE BOARD TO PRACTICE MEDICINE ACROSS STATE LINES THROUGH  
31 ELECTRONIC TRANSMISSION OR OTHER MECHANISMS OF INTERSTATE COMMERCE  
32 INTO THE STATE.

33 (B) (1) THE BOARD SHALL ISSUE A SPECIAL PURPOSE LICENSE ONLY TO AN  
34 APPLICANT WHO:

35 (I) HOLDS AN ACTIVE, FULL, AND UNRESTRICTED LICENSE TO  
36 PRACTICE MEDICINE IN ANY STATE OF THE UNITED STATES;

37 (II) IS NOT OTHERWISE LICENSED TO PRACTICE MEDICINE IN THE  
38 STATE;

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1 (III) HAS HAD NO DISCIPLINARY OR ANY OTHER ACTION TAKEN  
2 AGAINST THE APPLICANT BY ANY OTHER STATE OF THE UNITED STATES;

3 (IV) SUBMITS AN APPLICATION TO THE BOARD ON A FORM THAT  
4 THE BOARD REQUIRES;

5 (V) PAYS TO THE BOARD THE APPLICATION FEE FOR THE SPECIAL  
6 PURPOSE LICENSE AS SET BY THE BOARD; AND

7 (VI) MEETS ANY OTHER QUALIFICATIONS THAT THE BOARD  
8 ESTABLISHES IN ITS REGULATIONS FOR LICENSURE.

9 (2) THE BOARD MAY, IN ITS DISCRETION, ISSUE A SPECIAL PURPOSE  
10 LICENSE IF IT FINDS THAT ANY PREVIOUS DISCIPLINARY OR OTHER ACTION TAKEN  
11 AGAINST THE APPLICANT DOES NOT INDICATE THE PHYSICIAN IS A POTENTIAL  
12 THREAT TO THE PUBLIC; AND

13 (3) THE BOARD, MAY IN ITS DISCRETION, QUALIFY, RESTRICT, OR  
14 OTHERWISE LIMIT A LICENSE GRANTED UNDER THIS SECTION.

15 (C) SUBJECT TO THE RULES, REGULATIONS, AND ORDERS OF THE BOARD,  
16 THE FOLLOWING INDIVIDUALS MAY PRACTICE MEDICINE WITHOUT A SPECIAL  
17 PURPOSE LICENSE:

18 (1) AN OUT-OF-STATE PHYSICIAN WHO ENGAGES IN THE PRACTICE OF  
19 MEDICINE ACROSS STATE LINES IN AN EMERGENCY; AND

20 (2) AN OUT-OF-STATE PHYSICIAN WHO, WITHOUT COMPENSATION OR  
21 THE EXPECTATION OF COMPENSATION, ENGAGES IN A DISCUSSION REGARDING A  
22 PATIENT WITH A PHYSICIAN LICENSED IN THIS STATE.

23 (D) A SPECIAL PURPOSE LICENSE ISSUED BY THE BOARD LIMITS THE HOLDER  
24 OF THE LICENSE SOLELY TO THE PRACTICE OF MEDICINE ACROSS STATE LINES AS  
25 DEFINED IN THIS SUBTITLE WHEN:

26 (1) THE PATIENT IS UNDER THE DIRECT CARE OF A LICENSED  
27 PHYSICIAN LOCATED IN THIS STATE; AND

28 (2) THE LICENSED PHYSICIAN MAKES THE REFERRAL TO THE  
29 PHYSICIAN LOCATED OUTSIDE THIS STATE.

30 (E) THE TERM AND RENEWAL OF A SPECIAL PURPOSE LICENSE SHALL BE AS  
31 PROVIDED UNDER § 14-316 OF THIS SUBTITLE.

32 (F) THE ISSUANCE OF A SPECIAL PURPOSE LICENSE SUBJECTS THE HOLDER  
33 OF THE LICENSE TO:

34 (1) THE JURISDICTION OF THE BOARD IN ALL MATTERS SET FORTH IN  
35 THE MEDICAL PRACTICE ACT AND THE RULES AND REGULATIONS THAT HAVE BEEN  
36 ADOPTED TO IMPLEMENT THE ACT, INCLUDING ALL MATTERS RELATING TO  
37 DISCIPLINE OF PHYSICIANS;

38 (2) ALL STATE LAWS, RULES, AND REGULATIONS GOVERNING THE  
39 MAINTENANCE AND CONFIDENTIALITY OF MEDICAL RECORDS, NOTWITHSTANDING

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1 THE LAWS, RULES, AND REGULATIONS GOVERNING THE MAINTENANCE AND  
2 CONFIDENTIALITY OF MEDICAL RECORDS OF THE STATE WHERE THE HOLDER OF  
3 THE LICENSE IS LOCATED;

4 (3) PRODUCE PATIENT RECORDS AND MATERIALS AS REQUESTED BY  
5 THE BOARD; AND

6 (4) APPEAR BEFORE THE BOARD OR ANY OF ITS COMMITTEES  
7 FOLLOWING RECEIPT OF A WRITTEN NOTICE ISSUED BY THE BOARD.

8 (G) SUBJECT TO THE HEARING PROVISIONS OF § 14-404 OF THIS TITLE, THE  
9 BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS FULLY AUTHORIZED  
10 MEMBERSHIP, MAY REPRIMAND, IMPOSE A MONETARY PENALTY, PLACE ANY  
11 HOLDER OF A SPECIAL PURPOSE LICENSE ON PROBATION, SUSPEND OR REVOKE A  
12 SPECIAL PURPOSE LICENSE FOR ANY OF THE GROUNDS FOR BOARD ACTION UNDER  
13 § 14-404 OF THIS TITLE.

14 (H) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THE  
15 PROVISIONS OF THIS SECTION.

16 (I) IN ACCORDANCE WITH § 14-401 OF THIS TITLE, THE BOARD MAY CONSULT  
17 WITH THE APPROPRIATE MEDICAL SPECIALTY BOARD OR BOARDS IN  
18 INVESTIGATIONS RELATING TO THE STANDARD OF MEDICAL CARE ACROSS STATE  
19 LINES.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 1997.