

---

**By: Senator Hollinger**

Introduced and read first time: January 31, 1997

Assigned to: Economic and Environmental Affairs

---

A BILL ENTITLED

1 AN ACT concerning

2 **Board of Physician Quality Assurance - Disciplinary Authority**

3 FOR the purpose of altering a certain ground for discipline of physicians; adding certain  
4 grounds for discipline of physicians; altering certain provisions of law requiring the  
5 Board of Physician Quality Assurance to conduct certain hearings under certain  
6 circumstances; requiring the Board to disclose certain information concerning  
7 criminal activity to a law enforcement or prosecutorial official; authorizing the  
8 Board to provide portions of certain transcripts to certain persons; declaring the  
9 intent of the General Assembly; and generally relating to the disciplinary authority  
10 of the Board of Physician Quality Assurance.

11 BY repealing and reenacting, with amendments,

12 Article - Health Occupations

13 Section 14-404(a)(13), (35), and (36), 14-405(a), 14-409, and 14-411(k) and (m)  
14 through (p)

15 Annotated Code of Maryland

16 (1994 Replacement Volume and 1996 Supplement)

17 BY adding to

18 Article - Health Occupations

19 Section 14-404(a)(37) through (40)

20 Annotated Code of Maryland

21 (1994 Replacement Volume and 1996 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Health Occupations**

25 14-404.

26 (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on the  
27 affirmative vote of a majority of its full authorized membership, may reprimand any  
28 licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

2

1 (13) On proper request, AND IN ACCORDANCE WITH THE PROVISIONS OF  
2 TITLE 4, SUBTITLE 3 OF THE HEALTH - GENERAL ARTICLE, fails to provide details of a  
3 patient's medical record to THE PATIENT, another physician, or hospital;

4 (35) Is in breach of a service obligation resulting from the applicant's or  
5 licensee's receipt of State or federal funding for the licensee's medical education;[ or]

6 (36) Willfully makes a false representation when seeking or making  
7 application for licensure or any other application related to the practice of medicine;

8 (37) BY CORRUPT MEANS, THREATS, OR FORCE, INTIMIDATES OR  
9 INFLUENCES, OR ATTEMPTS TO INTIMIDATE OR INFLUENCE, FOR THE PURPOSE OF  
10 CAUSING ANY PERSON TO WITHHOLD OR CHANGE TESTIMONY IN HEARINGS OR  
11 PROCEEDINGS BEFORE THE BOARD OR THOSE OTHERWISE DELEGATED TO THE  
12 OFFICE OF ADMINISTRATIVE HEARINGS;

13 (38) BY CORRUPT MEANS, THREATS, OR FORCE, HINDERS, PREVENTS, OR  
14 OTHERWISE DELAYS ANY PERSON FROM MAKING INFORMATION AVAILABLE TO  
15 THE BOARD IN FURTHERANCE OF ANY INVESTIGATION OF THE BOARD;

16 (39) INTENTIONALLY MISREPRESENTS CREDENTIALS FOR THE PURPOSE  
17 OF TESTIFYING OR RENDERING AN EXPERT OPINION IN HEARINGS OR  
18 PROCEEDINGS BEFORE THE BOARD OR THOSE OTHERWISE DELEGATED TO THE  
19 OFFICE OF ADMINISTRATIVE HEARINGS; OR

20 (40) FAILS TO KEEP ADEQUATE MEDICAL RECORDS AS DETERMINED BY  
21 APPROPRIATE PEER REVIEW.

22 14-405.

23 (a) Except as otherwise provided in the Administrative Procedure Act, before the  
24 Board takes any action under [§ 14-404] § 14-404(A) of this subtitle or § 14-303, §  
25 14-305, or § 14-5A-17 of this title, it shall give the individual against whom the action is  
26 contemplated an opportunity for a hearing before a hearing officer.

27 14-409.

28 (a) Except as provided in [subsections] SUBSECTION (b) [and (c)] of this  
29 section, the Board may reinstate the license of an individual whose license has been  
30 suspended or revoked under this title only in accordance with:

31 (1) The terms and conditions of the order of suspension or revocation;

32 (2) An order of reinstatement issued by the Board; or

33 (3) A final judgment in any proceeding for review.

34 (b) An individual whose license has been suspended or revoked under this title  
35 and who seeks reinstatement shall meet the continuing medical education requirements  
36 established for the renewal of licenses as if the individual were licensed during the period  
37 of suspension or revocation.

38 (c) [(1)] If an order of suspension or revocation is based on § 14-404(b) of this  
39 subtitle, and the conviction or plea subsequently is overturned at any stage of an appeal

3

1 or other postconviction proceeding, the suspension or revocation ends when the  
2 conviction or plea is overturned.

3 [(2) After the appellate process is completed:

4 (i) The clerk of the court issuing the final disposition of the case shall  
5 notify the Board of that disposition; and

6 (ii) If the conviction or plea is upheld after completion of the appellate  
7 process, the Board may not take any further action against the physician unless it gives  
8 the physician an opportunity for another hearing, to be held within 60 days after the  
9 Board receives notice of the completion of the appellate process.]

10 14-411.

11 (k) If the Board determines that the information contained in a record concerns  
12 possible criminal activity [of a licensed physician], the Board shall disclose the  
13 information to a law enforcement or prosecutorial official.

14 (m) ON THE REQUEST OF A PERSON WHO HAS TESTIFIED IN A BOARD OR  
15 OFFICE OF ADMINISTRATIVE HEARINGS PROCEEDING, THE BOARD MAY PROVIDE  
16 TO THE PERSON WHO TESTIFIED A COPY OF THE PORTION OF THE TRANSCRIPT OF  
17 THAT PERSON'S TESTIMONY.

18 (N) (1) The Board may publish a summary of any allegations of grounds for  
19 disciplinary or other action.

20 (2) A summary may not identify:

21 (i) Any person who makes an allegation to the Board or any of its  
22 investigatory bodies;

23 (ii) A licensed physician about whom an allegation is made; or

24 (iii) A witness in an investigation or a proceeding before the Board or  
25 any of its investigatory bodies.

26 [(n)] (O) The Board shall disclose information in a record upon the request of the  
27 Governor, Secretary, or Legislative Auditor, in accordance with § 2-1218(a) of the State  
28 Government Article. However, the Governor, Secretary, or Auditor, or any of their  
29 employees may not disclose personally identifiable information from any of these records  
30 which are otherwise confidential by law.

31 [(o)] (P) This section does not apply to:

32 (1) Any disclosure of a record by the Board to any of its investigatory  
33 bodies; or

34 (2) A licensee, certificate holder, or registration holder who has been  
35 charged under this title or a party to a proceeding before the Board who claims to be  
36 aggrieved by the decision of the Board.

37 [(p)] (Q) If any information contained in any medical or hospital document or any  
38 other exhibit is otherwise open for disclosure under law, the use of that document or

4

1 exhibit in any record of the Board or any of its investigatory bodies does not prevent its  
2 disclosure in any other proceeding.

3           SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the  
4 General Assembly that the change to § 14-404(a)(38) of the Health Occupations Article  
5 made by this Act may not impair a licensed physician from legitimately preparing for an  
6 action before the State Board of Physician Quality Assurance.

7           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 1997.