

CF 7r2348

By: Senator Hollinger

Introduced and read first time: January 31, 1997

Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 11, 1997

CHAPTER ____

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~~ requiring
 8 the 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:

2

1 **Article - Health Occupations**

2 14-404.

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

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

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

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

13 (37) BY CORRUPT MEANS, THREATS, OR FORCE, INTIMIDATES OR
14 INFLUENCES, OR ATTEMPTS TO INTIMIDATE OR INFLUENCE, FOR THE PURPOSE OF
15 CAUSING ANY PERSON TO WITHHOLD OR CHANGE TESTIMONY IN HEARINGS OR
16 PROCEEDINGS BEFORE THE BOARD OR THOSE OTHERWISE DELEGATED TO THE
17 OFFICE OF ADMINISTRATIVE HEARINGS;

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

21 (39) INTENTIONALLY MISREPRESENTS CREDENTIALS FOR THE PURPOSE
22 OF TESTIFYING OR RENDERING AN EXPERT OPINION IN HEARINGS OR
23 PROCEEDINGS BEFORE THE BOARD OR THOSE OTHERWISE DELEGATED TO THE
24 OFFICE OF ADMINISTRATIVE HEARINGS; OR

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

27 14-405.

28 (a) Except as otherwise provided in the Administrative Procedure Act, before the
29 Board takes any action under [§ 14-404] § 14-404(A) of this subtitle or § 14-303, §
30 14-305, or § 14-5A-17 of this title, it shall give the individual against whom the action is
31 contemplated an opportunity for a hearing before a hearing officer.

32 14-409.

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

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

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

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

3

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

5 (c) [(1)] If an order of suspension or revocation is based on § 14-404(b) of this
 6 subtitle, and the conviction or plea subsequently is overturned at any stage of an appeal
 7 or other postconviction proceeding, the suspension or revocation ends when the
 8 conviction or plea is overturned.

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

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

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

16 14-411.

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

20 (m) ON THE REQUEST OF A PERSON WHO HAS TESTIFIED IN A BOARD OR
 21 OFFICE OF ADMINISTRATIVE HEARINGS PROCEEDING, THE BOARD ~~MAY~~ SHALL
 22 PROVIDE TO THE PERSON WHO TESTIFIED A COPY OF THE PORTION OF THE
 23 TRANSCRIPT OF THAT PERSON'S TESTIMONY.

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

26 (2) A summary may not identify:

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

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

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

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

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

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

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

4 [(p)] (Q) If any information contained in any medical or hospital document or any
5 other exhibit is otherwise open for disclosure under law, the use of that document or
6 exhibit in any record of the Board or any of its investigatory bodies does not prevent its
7 disclosure in any other proceeding.

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

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