
By: Senators Miller, Bromwell, Young, Hollinger, Astle, Dorman, Teitelbaum, Hafer, Della, Trotter, Derr, Roesser, and Madden

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 1997

CHAPTER _____

1 AN ACT concerning

2 **Consumer Health Information Act**

3 FOR the purpose of requiring the Health Education and Advocacy Unit of the Division
4 of Consumer Protection of the Office of the Attorney General to collect and, on
5 request, to disseminate to the public certain information concerning health
6 maintenance organizations, alternative health care systems, and certain licensed
7 physicians; authorizing the Unit to develop a certain form for a certain purpose;
8 requiring the clerk of a court in the State to submit certain information and
9 documents to the State Board of Physician Quality Assurance at a certain time;
10 requiring the Secretary of Health and Mental Hygiene annually to submit to the
11 Health Education and Advocacy Unit certain information based on a report the
12 Secretary receives annually from each health maintenance organization; requiring
13 the State Insurance Commissioner annually to submit to the Unit certain
14 information that the Commissioner receives concerning a health maintenance
15 organization; requiring each marketing and certain other documents of a health
16 maintenance organization to contain certain information; requiring the Health Care
17 Access and Cost Commission annually to submit certain information to the Unit;
18 providing that the purpose of a certain comparable performance measurement
19 system applicable to health maintenance organizations is to disseminate certain
20 findings to consumers; authorizing the State Board of Physician Quality Assurance
21 (Board) to assess a certain fee on renewal of a certain license to cover certain
22 administrative costs; providing that a certain limitation on the authority of the
23 Board to make certain informational disclosures is subject to certain authority of
24 the Board to disseminate certain information; requiring the Board, subject to a
25 certain option and conditions, to collect certain information about certain physician
26 licensees and to submit that information to the Health Education and Advocacy

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1 Unit; repealing a certain requirement limiting the type of criminal offense for which
 2 a court must report a conviction or certain pleas to the Board; providing that a
 3 certain prohibition against the subpoena or discovery of a certain report made by
 4 hospitals and certain other entities does not limit certain authority of the Board;
 5 ~~providing that certain authority of the Health Education and Advocacy Unit does~~
 6 ~~not authorize the Unit to disseminate certain information by certain electronic~~
 7 ~~media~~; requiring the Health Education and Advocacy Unit, in consultation with the
 8 Board, to study the potential impact of publication of certain information about
 9 physicians by electronic media and study a certain issue related to the acquisition of
 10 certain criminal background record information and to submit a certain report to
 11 certain legislative committees by a certain date; defining certain terms; and
 12 generally relating to the public dissemination of certain information about health
 13 maintenance organizations, alternative health care systems, and physicians.

14 BY repealing and reenacting, without amendments,
 15 Article - Commercial Law
 16 Section 13-101(a) and (e), 13-4A-01, and 13-4A-03
 17 Annotated Code of Maryland
 18 (1990 Replacement Volume and 1996 Supplement)

19 BY repealing and reenacting, with amendments,
 20 Article - Commercial Law
 21 Section 13-4A-02
 22 Annotated Code of Maryland
 23 (1990 Replacement Volume and 1996 Supplement)

24 BY adding to
 25 Article - Courts and Judicial Proceedings
 26 Section 2-207
 27 Annotated Code of Maryland
 28 (1995 Replacement Volume and 1996 Supplement)

29 BY repealing and reenacting, without amendments,
 30 Article - Health - General
 31 Section 1-101(a), (c), and (i)
 32 Annotated Code of Maryland
 33 (1994 Replacement Volume and 1996 Supplement)

34 BY repealing and reenacting, without amendments,
 35 Article - Health - General
 36 Section 19-701(a) and (c), 19-715, and 19-1501(a) and (b)
 37 Annotated Code of Maryland
 38 (1996 Replacement Volume and 1996 Supplement)

39 BY repealing and reenacting, with amendments,
 40 Article - Health - General

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1 Section 19-705.2, 19-714, 19-716, and 19-1508(c)
2 Annotated Code of Maryland
3 (1996 Replacement Volume and 1996 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article - Health Occupations
6 Section 14-101(a), (b), (e), (f), (h), and (l) and 14-501(a)(1) and (2)
7 Annotated Code of Maryland
8 (1994 Replacement Volume and 1996 Supplement)

9 BY adding to
10 Article - Health Occupations
11 Section 14-316(h) and 14-411.1
12 Annotated Code of Maryland
13 (1994 Replacement Volume and 1996 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Health Occupations
16 Section 14-411, 14-413, and 14-414
17 Annotated Code of Maryland
18 (1994 Replacement Volume and 1996 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Insurance
21 Section 4-401(f)
22 Annotated Code of Maryland
23 (1995 Volume and 1996 Supplement)
24 (As enacted by Chapter 36 of the Acts of the General Assembly of 1995 and by
25 Chapter _____ (H.B. 387) of the Acts of the General Assembly of 1997)

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

28 **Article - Commercial Law**

29 13-101.

30 (a) In this title the following words have the meanings indicated.

31 (e) "Division" means the Division of Consumer Protection of the Office of the
32 Attorney General.

33 13-4A-01.

34 There is a Health Education and Advocacy Unit in the Division.

35 13-4A-02.

36 (a) The Unit may implement an educational and advocacy program designed to:

4

1 (1) Enable health care consumers to make more informed choices in the
2 health marketplace, and to be able to participate in decisions concerning their health
3 care; and

4 (2) Otherwise promote the interest of health consumers in the health
5 marketplace.

6 (b) (1) The Unit may assist health care consumers in understanding their health
7 care bills and third party coverage, in identifying improper billing or coverage
8 determinations, and in reporting any billing or coverage problems to appropriate entities,
9 including the Division, the Attorney General or other governmental agencies, insurers, or
10 providers.

11 (2) Whenever any billing or coverage question concerns the adequacy or
12 propriety of any services or treatment, the Unit shall refer the matter to an appropriate
13 professional, licensing, or disciplinary body, as applicable. The Unit may monitor the
14 progress of the concerns raised by health consumers through such referrals.

15 (3) Whenever any billing or coverage question concerns a matter within the
16 jurisdiction of the Insurance Commissioner, the Unit shall refer the matter to the
17 Commissioner. The Unit may monitor the progress of the concerns raised by health
18 consumers through such referrals.

19 (4) The Unit shall work with the Department of Health and Mental Hygiene
20 to assist with resolving any billing or coverage questions as necessary.

21 (c) The Unit may:

22 (1) Recommend to the Attorney General, the Governor, the General
23 Assembly, or other appropriate governmental agencies any measures that will promote
24 the interests of health consumers in the health marketplace; and

25 (2) Present for consideration relevant information on the effects on health
26 care consumers generally in any agency proceeding which is otherwise open to the public.

27 (D) (1) THE UNIT SHALL RECEIVE INFORMATION THAT:

28 (I) THE STATE BOARD OF PHYSICIAN QUALITY ASSURANCE
29 COLLECTS AND SUBMITS TO THE UNIT UNDER § 14-411.1(C) OF THE HEALTH
30 OCCUPATIONS ARTICLE;

31 (II) THE HEALTH CARE ACCESS AND COST COMMISSION COLLECTS
32 AND SUBMITS TO THE UNIT UNDER § 19-1508(C) OF THE HEALTH - GENERAL
33 ARTICLE; AND

34 (III) THE STATE INSURANCE COMMISSIONER COLLECTS AND
35 SUBMITS TO THE UNIT UNDER § 19-705.2(F) OF THE HEALTH - GENERAL ARTICLE;
36 ~~AND~~.

37 (2) ON THE REQUEST OF A PERSON, AND IN A CLEAR, READABLE, AND
38 CONCISE MANNER, THE UNIT SHALL DISSEMINATE TO THE PERSON A CONSUMER
39 HEALTH INFORMATION REPORT THAT:

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1 (I) CONTAINS INFORMATION THE UNIT RECEIVES UNDER
2 PARAGRAPH (1) OF THIS SUBSECTION; AND

3 (II) AS TO INFORMATION CONCERNING HEALTH MAINTENANCE
4 ORGANIZATIONS AND ALTERNATIVE HEALTH CARE SYSTEMS, PROVIDES AN
5 APPROPRIATE COMPARATIVE FORMAT TO FACILITATE CONSUMER CHOICE.

6 (3) IN CONSULTATION WITH THE STATE BOARD OF PHYSICIAN QUALITY
7 ASSURANCE, THE HEALTH CARE ACCESS AND COST COMMISSION, AND THE STATE
8 INSURANCE ADMINISTRATION, THE UNIT MAY DEVELOP ANY FORM TO FACILITATE
9 THE COLLECTION, DISSEMINATION, OR BOTH, OF INFORMATION REQUIRED TO BE
10 SUBMITTED TO THE UNIT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

11 [(d)] (E) Nothing in this section shall mean that the Unit may have authority to
12 bring any civil action seeking review of a State agency determination.

13 13-4A-03.

14 To the extent possible, the Attorney General's Office shall include in its annual
15 budget funds for the administration and operation of the Unit.

16 **Article - Courts and Judicial Proceedings**

17 2-207.

18 (A) IN THIS SECTION, "CONVICTED" MEANS THE ENTRY OF A PLEA OF GUILTY
19 OR AN ADJUDICATION OF GUILT BY A COURT OF COMPETENT JURISDICTION.

20 (B) THE CLERK OF A COURT SHALL:

21 (1) WITHIN 10 DAYS AFTER A PERSON LICENSED TO PRACTICE
22 MEDICINE IN THE STATE IS CONVICTED IN THAT COURT OF ANY CRIME OR AFTER A
23 PERSON IS CONVICTED OF VIOLATING § 14-601 OR § 14-602 OF THE HEALTH
24 OCCUPATIONS ARTICLE:

25 (I) REPORT THE CONVICTION TO THE STATE BOARD OF
26 PHYSICIAN QUALITY ASSURANCE; AND

27 (II) SUBMIT TO THE STATE BOARD OF PHYSICIAN QUALITY
28 ASSURANCE A COPY OF THE PROCEEDINGS OF THE COURT CONCERNING THAT
29 PERSON; AND

30 (2) WITHIN 10 DAYS AFTER A PERSON WHO IS LICENSED TO PRACTICE
31 MEDICINE IN THIS STATE PLEADS NOLO CONTENDERE TO A CRIMINAL CHARGE OR
32 IS PLACED BY THE COURT ON PROBATION BEFORE JUDGMENT UNDER ARTICLE 27, §
33 641 OF THE CODE:

34 (I) REPORT THE PLEA OR ORDER OF PROBATION TO THE STATE
35 BOARD OF PHYSICIAN QUALITY ASSURANCE; AND

36 (II) SUBMIT TO THE STATE BOARD OF PHYSICIAN QUALITY
37 ASSURANCE A COPY OF THE PROCEEDINGS OF THE COURT CONCERNING THAT
38 PERSON.

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1 **Article - Health - General**

2 1-101.

3 (a) In this article the following words have the meanings indicated.

4 (c) "Department" means the Department of Health and Mental Hygiene.

5 (i) "Secretary" means the Secretary of Health and Mental Hygiene.

6 19-701.

7 (a) In this subtitle the following words have the meanings indicated.

8 (c) "Commissioner" means the State Insurance Commissioner.

9 19-705.2.

10 (a) With the advice of the Commissioner, the Secretary shall adopt regulations to
11 establish a system for the receipt and timely investigation of complaints of members and
12 subscribers of health maintenance organizations concerning the operation of any health
13 maintenance organization in this State.

14 (b) The complaint system shall include:

15 (1) A procedure for the timely acknowledgment of receipt of a complaint;

16 (2) Criteria for determining the appropriate level of investigation for a
17 complaint concerning quality of care, including:

18 (i) A determination as to whether the member or subscriber with the
19 complaint previously attempted to have the complaint resolved; and

20 (ii) A determination as to whether a complaint should be sent to the
21 member's or subscriber's health maintenance organization for resolution prior to
22 investigation under the provisions of this section; and

23 (3) A procedure for the referral to the Commissioner of all complaints,
24 other than quality of care complaints, for an appropriate investigation.

25 (c) If a determination is made to investigate a complaint under the provisions of
26 this section prior to the member or subscriber attempting to otherwise resolve the
27 complaint, the reasons for that determination shall be documented.

28 (d) Notice of the complaint system established under the provisions of this section
29 shall be included in all contracts between a health maintenance organization and a
30 member or subscriber of a health maintenance organization.

31 (E) ON THE BASIS OF THE ANNUAL REPORT A HEALTH MAINTENANCE
32 ORGANIZATION SUBMITS TO THE SECRETARY UNDER COMAR 10.07.11.11, THE
33 SECRETARY ANNUALLY SHALL SUBMIT TO THE HEALTH EDUCATION AND
34 ADVOCACY UNIT OF THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF
35 THE ATTORNEY GENERAL A DOCUMENT THAT COMPARES ALL HEALTH
36 MAINTENANCE ORGANIZATIONS IN THE STATE BY REGION CONCERNING:

7

1 (1) THE NUMBER OF GRIEVANCES FILED AT EACH HEALTH
2 MAINTENANCE ORGANIZATION;

3 (2) THE NUMBER OF PERSONS DISENROLLED BY THE ACTION OF EACH
4 HEALTH MAINTENANCE ORGANIZATION; AND

5 (3) THE REASONS FOR THE DISENROLLMENT.

6 (F) THE COMMISSIONER ANNUALLY SHALL SUBMIT TO THE HEALTH
7 EDUCATION AND ADVOCACY UNIT OF THE DIVISION OF CONSUMER PROTECTION IN
8 THE OFFICE OF THE ATTORNEY GENERAL A DOCUMENT THAT COMPARES ALL
9 HEALTH MAINTENANCE ORGANIZATIONS IN THE STATE BY REGION CONCERNING
10 THE NUMBER OF GRIEVANCES FILED WITH THE COMMISSIONER FOR EACH HEALTH
11 MAINTENANCE ORGANIZATION.

12 19-714.

13 Each marketing document that sets forth the health care services of a health
14 maintenance organization shall describe fully and clearly:

15 (1) The health care services under each benefit package and every other
16 benefit to which a member is entitled;

17 (2) Where and how services may be obtained;

18 (3) Each exclusion or limitation on any service or other benefit that it
19 provides;

20 (4) Each deductible feature;

21 (5) Each copayment provision; [and]

22 (6) All information required by Article 48A, § 703(c) of the Code;

23 (7) THE TELEPHONE NUMBER AND MAILING ADDRESS OF THE HEALTH
24 EDUCATION AND ADVOCACY UNIT OF THE DIVISION OF CONSUMER PROTECTION IN
25 THE OFFICE OF THE ATTORNEY GENERAL; AND

26 (8) A STATEMENT CONCERNING THE RIGHT OF THE RECIPIENT OF THE
27 MARKETING DOCUMENT TO OBTAIN A CONSUMER HEALTH INFORMATION REPORT
28 FROM THE HEALTH EDUCATION AND ADVOCACY UNIT OF THE DIVISION OF
29 CONSUMER PROTECTION IN THE OFFICE OF THE ATTORNEY GENERAL.

30 19-715.

31 Each health maintenance organization application or offer of enrollment shall
32 contain or be accompanied by, and each form of health maintenance organization
33 subscriber contract shall contain, a full and clear statement of:

34 (1) The items specified in § 19-714 of this subtitle;

35 (2) The rate of periodic payment;

36 (3) When the coverage is effective and what restrictions, if any, apply to
37 preexisting conditions;

8

1 (4) All standards for cancellation of enrollment or denial of reenrollment;
2 and

3 (5) Service priorities, if any, in epidemic or other emergency or catastrophic
4 conditions that may cause an unusually high demand for medical services.

5 19-716.

6 Annually, each health maintenance organization shall provide to its members and
7 make available to the general public, in clear, readable, and concise form:

8 (1) A summary of the most recent financial report that the health
9 maintenance organization submits to the Commissioner under § 19-717 of this subtitle;

10 (2) A description of the benefit packages available and the nongroup rates
11 required by the Commissioner;

12 (3) A description of the accessibility and availability of services, including
13 where and how to obtain them;

14 (4) A statement of the potential responsibility of a member for payment for
15 services the member seeks to obtain from a provider, including a physician or hospital,
16 that does not have a written contract with the health maintenance organization;

17 (5) A description of procedures to be followed for emergency services,
18 including:

19 (i) The appropriate use of hospital emergency facilities;

20 (ii) The appropriate use, location, and hours of operation of any
21 urgent care facilities operated by the health maintenance organization; and

22 (iii) The potential responsibility of subscribers and enrollees for
23 payment for emergency services or nonemergency services rendered in a hospital
24 emergency facility;

25 (6) A statement that shows, by category, the percentage of members assisted
26 by public funds;

27 (7) The information required to be disclosed by Article 48A, § 703(c) of the
28 Code; [and]

29 (8) THE TELEPHONE NUMBER AND MAILING ADDRESS OF THE HEALTH
30 EDUCATION AND ADVOCACY UNIT OF THE DIVISION OF CONSUMER PROTECTION IN
31 THE OFFICE OF THE ATTORNEY GENERAL;

32 (9) A STATEMENT CONCERNING THE RIGHT OF THE RECIPIENT TO
33 OBTAIN A CONSUMER HEALTH INFORMATION REPORT FROM THE HEALTH
34 EDUCATION AND ADVOCACY UNIT OF THE DIVISION OF CONSUMER PROTECTION IN
35 THE OFFICE OF THE ATTORNEY GENERAL; AND

36 [(8)] (10) Any other information that the Commissioner or the Department
37 requires by rule or regulation.

9

1 19-1501.

2 (a) In this subtitle the following words have the meanings indicated.

3 (b) "Commission" means the Maryland Health Care Access and Cost
4 Commission.

5 19-1508.

6 (c) (1) The Commission shall:

7 (i) On or before January 1, 1994, establish and implement a system to
8 comparatively evaluate the quality of care outcomes and performance measurements of
9 health maintenance organization benefit plans and services on an objective basis; [and]

10 (ii) Annually publish the summary findings of the evaluation; AND

11 (III) ANNUALLY SUBMIT TO THE HEALTH EDUCATION AND
12 ADVOCACY UNIT OF THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF
13 THE ATTORNEY GENERAL INFORMATION DERIVED FROM A HEALTH PLAN
14 EMPLOYER DATA AND INFORMATION SET (HEDIS) EVALUATION OF EACH HEALTH
15 MAINTENANCE ORGANIZATION IN THE STATE THAT:

16 1. IS RELATED TO THE QUALITY AND PERFORMANCE OF
17 MEDICAL SERVICES PROVIDED BY THE HEALTH MAINTENANCE ORGANIZATION IN
18 THE AREAS OF:

19 A. EFFECTIVENESS OF CARE;

20 B. ACCESS AND AVAILABILITY OF CARE;

21 C. MEMBER SATISFACTION WITH THE EXPERIENCE OF
22 CARE;

23 D. HEALTH PLAN STABILITY;

24 E. USE OF SERVICES;

25 F. COST OF CARE;

26 G. INFORMED HEALTH CARE CHOICES; AND

27 H. HEALTH PLAN DESCRIPTIVE INFORMATION;

28 2. ALLOWS FOR A COMPARATIVE EVALUATION AMONG
29 HEALTH MAINTENANCE ORGANIZATIONS ON A PLAN LEVEL; AND

30 3. IS OF INTEREST PRIMARILY TO CONSUMERS WHO MAKE
31 HEALTH BENEFIT ENROLLMENT DECISIONS.

32 (2) The purpose of a comparable performance measurement system
33 established under this section is to assist health maintenance organization benefit plans to
34 improve the quality of care provided by establishing a common set of performance
35 measurements and disseminating the findings of the performance measurements to health

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1 maintenance [organizations] ORGANIZATIONS, CONSUMERS, and OTHER interested
2 parties.

3 (3) The system, where appropriate, shall solicit performance information
4 from enrollees of health maintenance organizations.

5 (4) (i) The Commission shall adopt regulations to establish the system of
6 evaluation provided under this section.

7 (ii) Before adopting regulations to implement an evaluation system
8 under this section, the Commission shall consider any recommendations of the quality of
9 care subcommittee of the Group Health Association of America and the National
10 Committee for Quality Assurance.

11 (5) The Commission may contract with a private, nonprofit entity to
12 implement the system required under this subsection provided that the entity is not an
13 insurer.

14 **Article - Health Occupations**

15 14-101.

16 (a) In this title the following words have the meanings indicated.

17 (b) "Board" means the State Board of Physician Quality Assurance.

18 (c) "Hospital" has the meaning stated in § 19-301 of the Health - General
19 Article.

20 (f) "License" means, unless the context requires otherwise, a license issued by the
21 Board to practice medicine.

22 (h) "Licensee" means an individual to whom a license is issued, including an
23 individual practicing medicine within or as a professional corporation or professional
24 association.

25 (l) "Related institution" has the meaning stated in § 19-301 of the Health -
26 General Article.

27 14-316.

28 (H) IN RENEWING A LICENSE UNDER THIS SECTION, THE BOARD MAY ASSESS
29 EACH LICENSEE A REASONABLE FEE TO COVER ANY ADDITIONAL ADMINISTRATIVE
30 COSTS OF THE BOARD IN MEETING THE REQUIREMENTS OF § 14-411.1 OF THIS
31 ~~SUBTITLE~~ TITLE.

32 14-411.

33 (a) In this section, "record" means the proceedings, records, or files of the Board.

34 (b) Except as otherwise expressly provided in this section AND IN § 14-411.1 OF
35 THIS SUBTITLE, the Board or any of its investigatory bodies may not disclose any
36 information contained in a record.

11

1 (c) Nothing in this section shall be construed to prevent or limit the disclosure
2 [of] OF:

3 (1) [general] GENERAL licensure, certification, or registration information
4 maintained by the Board, if the request for release complies with the criteria of §
5 10-617(h) of the State Government Article; OR

6 (2) AS TO A LICENSEE, ANY INFORMATION THAT § 14-411.1 OF THIS
7 SUBTITLE REQUIRES THE BOARD TO DISCLOSE.

8 (d) The Board shall disclose any information contained in a record to a committee
9 of a hospital, health maintenance organization, or related institution if:

10 (1) The committee of a medical hospital staff concerned with physician
11 discipline or other committee of a hospital, health maintenance organization, or related
12 institution requests the information in writing;

13 (2) The Board has issued an order as to a licensed physician on whom the
14 information is requested; and

15 (3) The Board determines that the information requested is necessary for an
16 investigation or action of the committee as to a medical privilege of a licensed physician.

17 (e) (1) The Board shall notify all hospitals, health maintenance organizations,
18 or other health care facilities where a physician or an allied health professional regulated
19 by the Board has privileges, has a provider contract with a health maintenance
20 organization, or is employed of a complaint or report filed against that physician, if:

21 (i) The Board determines, in its discretion, that the hospital, health
22 maintenance organization, or health care facility should be informed about the report or
23 complaint;

24 (ii) The nature of the complaint suggests a reasonable possibility of an
25 imminent threat to patient safety; or

26 (iii) The complaint or report was as a result of a claim filed in the
27 Health Claims Arbitration Office and a certificate of a qualified expert is filed in
28 accordance with § 3-2A-04(b)(1) of the Courts Article.

29 (2) The Board shall disclose any information pertaining to a physician's
30 competency to practice medicine contained in record to a committee of a hospital, health
31 maintenance organization, or other health care facility if:

32 (i) The committee is concerned with physician discipline and requests
33 the information in writing; and

34 (ii) The Board has received a complaint or report pursuant to
35 paragraph (1)(i) and (ii) of this subsection on the licensed physician on whom the
36 information is requested.

37 (3) The Board shall, after formal action is taken pursuant to § 14-406 of this
38 subtitle, notify those hospitals, health maintenance organizations, or health care facilities
39 where the physician has privileges, has a provider contract with a health maintenance

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1 organization, or is employed of its formal action within 10 days after the action is taken
2 and shall provide the hospital, health maintenance organization, or health care facility
3 with periodic reports as to enforcement or monitoring of a formal disciplinary order
4 against a physician within 10 days after receipt of those reports.

5 (f) On the request of a person who has made a complaint to the Board regarding
6 a physician, the Board shall provide the person with information on the status of the
7 complaint.

8 (g) Following the filing of charges or notice of initial denial of license application,
9 the Board shall disclose the filing to the public.

10 (h) The Board may disclose any information contained in a record to a licensing
11 or disciplinary authority of another state if:

12 (1) The licensing or disciplinary authority of another state that regulates
13 licensed physicians in that state requests the information in writing; and

14 (2) The disclosure of any information is limited to the pendency of an
15 allegation of a ground for disciplinary or other action by the Board until:

16 (i) The Board has passed an order under § 14-406 of this subtitle; or

17 (ii) A licensed physician on whom the information is requested
18 authorizes a disclosure as to the facts of an allegation or the results of an investigation
19 before the Board.

20 (i) The Board may disclose any information contained in a record to a person if:

21 (1) A licensed physician on whom any information is requested authorizes
22 the person to receive the disclosure;

23 (2) The person requests the information in writing; and

24 (3) The authorization for the disclosure is in writing.

25 (j) The Board may disclose any information contained in a record to the State
26 Medical Assistance Compliance Administration, the Secretary of the U.S. Department of
27 Health and Human Services or the Secretary's designee, or any health occupational
28 regulatory board if:

29 (1) (i) The State Medical Assistance Compliance Administration or any
30 health occupational regulatory board requests the information in writing; or

31 (ii) The Secretary of the U.S. Department of Health and Human
32 Services or the Secretary's designee is entitled to receive the information or have access
33 to the information under 42 U.S.C. § 1396R-2.

34 (2) (i) The Board has issued an order under § 14-406 of this subtitle; or

35 (ii) An allegation is pending before the Board; and

36 (3) The Board determines that the requested information is necessary for
37 the proper conduct of the business of that administration or board.

13

1 (k) If the Board determines that the information contained in a record concerns
2 possible criminal activity of a licensed physician, the Board shall disclose the information
3 to a law enforcement or prosecutorial official.

4 (l) The Board may permit inspection of records for which inspection otherwise is
5 not authorized by a person who is engaged in a research project if:

6 (1) The researcher submits to the Executive Director and the Board
7 approves a written request that:

8 (i) Describes the purpose of the research project;

9 (ii) Describes the intent, if any, to publish the findings;

10 (iii) Describes the nature of the requested personal records;

11 (iv) Describes the safeguards that the researcher would take to protect
12 the identity of the persons in interest; and

13 (v) States that persons in interest will not be contacted unless the
14 Executive Director approves and monitors the contact;

15 (2) The Executive Director is satisfied that the proposed safeguards will
16 prevent the disclosure of the identity of persons in interest; and

17 (3) The researcher makes an agreement with the Executive Director that:

18 (i) Defines the scope of the research project;

19 (ii) Sets out the safeguards for protecting the identity of the persons in
20 interest; and

21 (iii) States that a breach of any condition of the agreement is a breach
22 of contract.

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

25 (2) A summary may not identify:

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

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

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

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

36 (o) This section does not apply to:

14

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

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

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

10 14-411.1.

11 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (2) "ALTERNATIVE HEALTH CARE SYSTEM" HAS THE MEANING STATED
14 IN § 14-501(A)(2) OF THIS ~~ARTICLE~~ TITLE.

15 (3) "HEALTH MAINTENANCE ORGANIZATION" HAS THE MEANING
16 STATED IN § 19-701(F) OF THE HEALTH - GENERAL ARTICLE.

17 ~~(4) "LICENSEE" MEANS A PHYSICIAN LICENSED BY THE BOARD WHO IS
18 EMPLOYED BY OR UNDER CONTRACT WITH AN ALTERNATIVE HEALTH CARE
19 SYSTEM OR A HEALTH MAINTENANCE ORGANIZATION.~~

20 ~~(5)~~ (4) "UNIT" MEANS THE HEALTH EDUCATION AND ADVOCACY
21 UNIT OF THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF THE
22 ATTORNEY GENERAL.

23 (B) FOR EACH LICENSEE, THE BOARD SHALL COLLECT AND PERIODICALLY
24 UPDATE INFORMATION ABOUT:

25 ~~(1) ANY CRIMINAL CONVICTION OF THE LICENSEE WITHIN THE MOST
26 RECENT 10-YEAR PERIOD OF A FELONY AND, AS DETERMINED BY THE BOARD, A
27 SERIOUS MISDEMEANOR;~~

28 ~~(2) ANY CHARGE TO WHICH THE LICENSEE PLEADS NOLO
29 CONTENDERE OR WHERE A COURT OF COMPETENT JURISDICTION PLACES THE
30 LICENSEE ON PROBATION BEFORE JUDGMENT UNDER ARTICLE 27, § 641 OF THE
31 CODE;~~

32 ~~(3)~~ (1) ANY FINAL DISCIPLINARY ACTION TAKEN BY THE BOARD
33 AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;

34 ~~(4)~~ (2) ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING
35 BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN
36 THE MOST RECENT 10-YEAR PERIOD;

37 ~~(5)~~ (3) AN ACTION TAKEN WITHIN THE MOST RECENT 10-YEAR
38 PERIOD IN WHICH:

15

1 (I) A HOSPITAL OR RELATED INSTITUTION DENIED, LIMITED,
2 REDUCED, CHANGED, OR TERMINATED THE STAFF PRIVILEGES OF A LICENSEE, OR
3 THE LICENSEE RESIGNED, IF:

4 1. THE ACTION IS FOR A REASON THAT MIGHT BE A
5 GROUND FOR DISCIPLINARY ACTION UNDER § 14-404 OF THIS SUBTITLE; AND

6 2. THE GOVERNING BODY OF THE HOSPITAL OR RELATED
7 INSTITUTION AFFORDED THE LICENSEE PROCEDURAL PROCESS; AND

8 (II) A HEALTH MAINTENANCE ORGANIZATION OR ALTERNATIVE
9 HEALTH CARE SYSTEM DENIED, LIMITED, REDUCED, CHANGED, OR TERMINATED A
10 CONTRACT OF A LICENSEE, OR THE LICENSEE RESIGNED, IF THE ACTION IS FOR A
11 REASON THAT MIGHT BE A GROUND FOR DISCIPLINARY ACTION UNDER § 14-404 OF
12 THIS SUBTITLE;

13 ~~(6)~~ (4) SUBJECT TO SUBSECTION (E) OF THIS SECTION AND FOR THE
14 MOST RECENT 10-YEAR PERIOD; ANY MEDICAL MALPRACTICE COURT JUDGMENT
15 AGAINST A LICENSEE AND ANY MEDICAL MALPRACTICE ARBITRATION AWARD
16 INVOLVING A LICENSEE IN WHICH;

17 (I) A PAYMENT IS AWARDED TO A COMPLAINING PARTY AGAINST
18 THE LICENSEE; OR

19 (II) A PAYMENT IS MADE TO A COMPLAINING PARTY BY A
20 LICENSEE AS A RESULT OF A SETTLEMENT OF THE MEDICAL MALPRACTICE CLAIM;

21 ~~(I) A MEDICAL MALPRACTICE CLAIM AGAINST THE LICENSEE~~
22 ~~BEFORE THE HEALTH CLAIMS ARBITRATION OFFICE OF WHICH THE BOARD IS~~
23 ~~NOTIFIED UNDER § 3-2A-04(A) OF THE COURTS AND JUDICIAL PROCEEDINGS~~
24 ~~ARTICLE;~~

25 ~~(II) A JUDICIAL ACTION OF WHICH THE BOARD IS NOTIFIED BY~~
26 ~~THE CLERK OF A COURT UNDER § 3-2A-06(B)(4) OF THE COURTS AND JUDICIAL~~
27 ~~PROCEEDINGS ARTICLE;~~

28 ~~(III) A MEDICAL MALPRACTICE ARBITRATION AWARD AGAINST~~
29 ~~THE LICENSEE; AND~~

30 ~~(IV) A MEDICAL MALPRACTICE COURT JUDGMENT AGAINST THE~~
31 ~~LICENSEE;~~

32 ~~(7)~~ (5) THE NAMES OF MEDICAL SCHOOLS THAT THE LICENSEE
33 ATTENDED AND THE DATES ON WHICH THE LICENSEE GRADUATED FROM THOSE
34 SCHOOLS;

35 ~~(8)~~ (6) ANY GRADUATE MEDICAL EDUCATION OF THE LICENSEE;

36 ~~(9)~~ (7) ANY SPECIALTY BOARD CERTIFICATION OF THE LICENSEE;

37 ~~(10)~~ (8) THE NUMBER OF YEARS THE LICENSEE HAS PRACTICED
38 MEDICINE;

16

1 ~~(41)~~ (9) THE NAMES OF THE HOSPITALS, ALTERNATIVE HEALTH CARE
2 SYSTEMS, AND HEALTH MAINTENANCE ORGANIZATIONS WHERE THE LICENSEE HAS
3 MEDICAL PRIVILEGES;

4 ~~(42)~~ (10) SUBJECT TO SUBSECTION (D) OF THIS SECTION:

5 (I) ANY APPOINTMENT OF THE LICENSEE WITHIN THE MOST
6 RECENT 10-YEAR PERIOD TO A MEDICAL SCHOOL FACULTY AND, IN THAT
7 CAPACITY, WHETHER THE LICENSEE HAS OR HAS HAD RESPONSIBILITY FOR
8 GRADUATE MEDICAL EDUCATION;

9 (II) ANY PUBLICATIONS BY THE LICENSEE WITHIN THE MOST
10 RECENT 10-YEAR PERIOD IN PEER-REVIEWED MEDICAL LITERATURE; AND

11 (III) ANY PROFESSIONAL OR COMMUNITY SERVICE ACTIVITIES
12 AND AWARDS OF THE LICENSEE;

13 ~~(43)~~ (11) THE LOCATION OF THE PRIMARY PRACTICE SETTING OF THE
14 LICENSEE;

15 ~~(44)~~ (12) WHETHER THE LICENSEE MAINTAINS ANY TRANSLATING
16 SERVICE AT THE PRIMARY PRACTICE SETTING OF THE LICENSEE; AND

17 ~~(45)~~ (13) WHETHER THE LICENSEE PARTICIPATES IN THE ~~STATE~~
18 ~~MEDICAL CARE ASSISTANCE PROGRAM~~ MARYLAND MEDICAL ASSISTANCE
19 PROGRAM.

20 (C) THE BOARD SHALL SUBMIT THE INFORMATION IT COLLECTS UNDER
21 SUBSECTION (B) OF THIS SECTION TO THE UNIT.

22 (D) THE BOARD SHALL PROVIDE EACH LICENSEE WITH:

23 (1) AT THE TIME THE BOARD COLLECTS THE INFORMATION SPECIFIED
24 ~~IN SUBSECTION (A)~~ ~~(42)~~ SUBSECTION (B)(10) OF THIS SECTION, THE OPTION OF
25 ELECTING TO HAVE THAT INFORMATION OMITTED FROM THE INFORMATION THAT
26 THE BOARD COLLECTS FROM THE LICENSEE; AND

27 (2) BEFORE SUBMITTING TO THE UNIT THE INFORMATION THE BOARD
28 COLLECTS UNDER THIS SECTION ABOUT THE LICENSEE:

29 (I) A COPY OF THE INFORMATION THE BOARD HAS COLLECTED
30 ABOUT THE LICENSEE; AND

31 (II) A REASONABLE PERIOD OF TIME TO CORRECT A FACTUAL
32 INACCURACY THAT MAY APPEAR IN THE INFORMATION ABOUT THE LICENSEE.

33 (E) (1) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF THE BOARD:

34 (I) TO PROVIDE EXPLANATORY INFORMATION CONCERNING THE
35 SIGNIFICANCE OF THE FILING OF A CLAIM AGAINST A LICENSEE;

36 (II) TO INVESTIGATE AND DISCIPLINE A LICENSEE ON THE BASIS
37 OF A MEDICAL MALPRACTICE CLAIM THAT IS PENDING AGAINST THE LICENSEE; OR

17

1 (III) TO DISCLOSE INFORMATION THAT § 14-411(F) AND (G) OF THIS
2 SUBTITLE REQUIRES THE BOARD TO DISCLOSE.

3 (2) IN COLLECTING ~~INFORMATION~~ THE INFORMATION SPECIFIED
4 UNDER ~~SUBSECTION (B)(6)~~ SUBSECTION (B)(4) OF THIS SECTION, THE BOARD SHALL
5 ENSURE THAT THE BOARD:

6 (I) DOES NOT DISCLOSE THE EXACT AMOUNT OF ANY
7 SETTLEMENT THAT A LICENSEE MAKES CONCERNING A MALPRACTICE CLAIM;

8 (II) DOES NOT DISCLOSE TO THE PUBLIC INFORMATION
9 CONCERNING A PENDING MEDICAL MALPRACTICE CLAIM AGAINST A LICENSEE;
10 AND

11 (III) ONLY DISCLOSES INFORMATION CONCERNING THE
12 DISPOSITION OF PAID MEDICAL MALPRACTICE CLAIMS THAT:

13 1. CATEGORIZES CLAIMS IN A MINIMUM OF THREE
14 GRADUATED CATEGORIES TO INDICATE THE LEVEL OF SIGNIFICANCE OF THE
15 AWARD OR SETTLEMENT;

16 2. IDENTIFIES THE CONTEXT IN WHICH THE PAYMENT OF A
17 CLAIM BY COMPARING THE MEDICAL MALPRACTICE JUDGMENT AWARD OR
18 SETTLEMENT CONCERNING THE LICENSEE AGAINST THE EXPERIENCE OF OTHER
19 LICENSEES OF THE SAME SPECIALTY; AND

20 3. IS ACCOMPANIED BY THE FOLLOWING STATEMENT:

21 "SETTLEMENT OF A CLAIM MAY OCCUR FOR A VARIETY OF REASONS THAT DO NOT
22 NECESSARILY REFLECT NEGATIVELY ON THE PROFESSIONAL COMPETENCE OR
23 CONDUCT OF THE PHYSICIAN. A PAYMENT IN SETTLEMENT OF A MEDICAL
24 MALPRACTICE ACTION OR CLAIM SHOULD NOT BE CONSTRUED AS CREATING A
25 PRESUMPTION THAT MEDICAL MALPRACTICE HAS OCCURRED."

26 14-413.

27 (a) (1) Every 6 months, each hospital and related institution shall file with
28 the Board a report that:

29 (i) Contains the name of each licensed physician who, during the 6
30 months preceding the report:

- 31 1. Is employed by the hospital or related institution;
- 32 2. Has privileges with the hospital or related institution; and
- 33 3. Has applied for privileges with the hospital or related
34 institution; and

35 (ii) States whether, as to each licensed physician, during the 6 months
36 preceding the report:

- 37 1. The hospital or related institution denied the application of a
38 physician for staff privileges or limited, reduced, otherwise changed, or terminated the

19

1 EDUCATION AND ADVOCACY UNIT OF THE DIVISION OF CONSUMER PROTECTION IN
2 THE OFFICE OF THE ATTORNEY GENERAL INFORMATION THE BOARD COLLECTS
3 UNDER § 14-411.1(B)(5) OF THIS SUBTITLE THAT IS CONTAINED IN A REPORT THIS
4 SECTION REQUIRES A HOSPITAL OR RELATED INSTITUTION TO MAKE.

5 (2) A report made under this section is not subject to subpoena or discovery
6 in any civil action other than a proceeding arising out of a hearing and decision of the
7 Board under this title.

8 [(f)] (E) Failure to report pursuant to this section shall result in imposition of a
9 civil penalty of up to \$5,000 by a circuit court of this State.

10 14-414.

11 (a) (1) Every 6 months, each alternative health CARE system as defined in §
12 14-501 of this title shall file with the Board a report that:

13 (i) Contains the name of each licensed physician who, during the 6
14 months preceding the report:

15 1. Is employed by the alternative health CARE system;

16 2. Is under contract with the alternative health CARE system;

17 and

18 3. Has completed a formal application process to become under
19 contract with the alternative health CARE system; and

20 (ii) States whether, as to each licensed physician, during the 6 months
21 preceding the report:

22 1. The alternative health CARE system denied the formal
23 application of a physician to contract with the alternative health CARE system or limited,
24 reduced, otherwise changed, or terminated the contract of a physician, or the physician
25 resigned whether or not under formal accusation, if the denial, limitation, reduction,
26 change, termination, or resignation is for reasons that might be grounds for disciplinary
27 action under § 14-404 of this subtitle; or

28 2. The alternative health CARE system placed any other
29 restrictions or conditions on any licensed physician for any reasons that might be grounds
30 for disciplinary action under § 14-404 of this subtitle.

31 (2) The alternative health CARE system shall:

32 (i) Submit the report within 10 days of any action described in
33 paragraph (1)(ii) of this subsection; and

34 (ii) State in the report the reasons for its action or the nature of the
35 formal accusation pending when the physician resigned.

36 (3) The Board may extend the reporting time under this subsection for good
37 cause shown.

20

1 (4) The minutes or notes taken in the course of determining the denial,
2 limitation, reduction, or termination of the employment contract of any physician in an
3 alternative health CARE system are not subject to review or discovery by any person.

4 [(b) (1) Each court shall report to the Board each conviction of or entry of a plea
5 of guilty or nolo contendere by a physician for any crime involving moral turpitude.

6 (2) The court shall submit the report within 10 days of the conviction or
7 entry of the plea.]

8 [(c)] (B) The Board may enforce this section by subpoena.

9 [(d)] (C) Any person shall have the immunity from liability described under §
10 5-392(d) of the Courts and Judicial Proceedings Article for giving any of the information
11 required by this section.

12 [(e)] (D) (1) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF THE
13 BOARD UNDER § 14-411.1(C) OF THIS SUBTITLE TO SUBMIT TO THE HEALTH
14 EDUCATION AND ADVOCACY UNIT OF THE DIVISION OF CONSUMER PROTECTION IN
15 THE OFFICE OF THE ATTORNEY GENERAL INFORMATION THE BOARD COLLECTS
16 UNDER § 14-411.1(A)(5) OF THIS SUBTITLE THAT IS CONTAINED IN A REPORT THIS
17 SECTION REQUIRES AN ALTERNATIVE HEALTH CARE SYSTEM TO MAKE.

18 (2) A report made under this section is not subject to subpoena or discovery
19 in any civil action other than a proceeding arising out of a hearing and decision of the
20 Board under this title.

21 [(f)] (E) Failure to report pursuant to the requirements of this section shall result
22 in imposition of a civil penalty of up to \$5,000 by a circuit court of this State.

23 14-501.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) (i) "Alternative health care system" means a system of health care
26 delivery other than a hospital or related institution.

27 (ii) "Alternative health care system" includes:

28 1. A health maintenance organization;

29 2. A preferred provider organization;

30 3. An independent practice association; or

31 4. A community health center that is a nonprofit, freestanding
32 ambulatory health care provider governed by a voluntary board of directors and that
33 provides primary health care services to the medically indigent.

34 ~~SECTION 2. AND BE IT FURTHER ENACTED, That § 13-4A-02(d) of the~~
35 ~~Commercial Law Article, as enacted by Section 1 of this Act, does not authorize the~~
36 ~~Health Education and Advocacy Unit of the Division of Consumer Protection in the~~
37 ~~Office of the Attorney General, before January 1, 1999, to disseminate information about~~

21

1 a physician, alternative health care system, or health maintenance organization by
2 electronic media, including the World Wide Web of the Internet or on CD Rom.

3 **Article - Insurance**

4 4-401.

5 (f) (1) [Subject] EXCEPT INFORMATION THAT IS RELEASED ONLY IN
6 ACCORDANCE WITH § 14-411.1 OF THE HEALTH OCCUPATIONS ARTICLE AND SUBJECT
7 to paragraph (2) of this subsection, a report filed in accordance with this section shall be
8 treated as a personal record under § 10-624(c) of the State Government Article.

9 (2) Each report shall be released to the Maryland Health Care Access and
10 Cost Commission.

11 SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That the Health Education
12 and Advocacy Unit of the Division of Consumer Protection in the Office of the Attorney
13 General, in consultation with the State Board of Physician Quality Assurance, shall:

14 (1) Study the potential impact on the personal safety of physicians and the
15 families of physicians of publication by electronic media of the type of information
16 required to be collected under § 14-411.1 of the Health Occupations Article, as enacted
17 by Section 1 of this Act;

18 (2) Study the issue of obtaining criminal background record information on
19 physicians to determine the most efficient means of collecting the data; and

20 ~~(2)~~ (3) On or before October 1, 1998 report its findings and
21 recommendations to the Finance Committee and Economic and Environmental Affairs
22 Committee of the Senate of Maryland and to the Environmental Matters Committee of
23 the House of Delegates and include in the report, for a sample physician, information
24 required to be collected under § 14-411.1 of the Health Occupations Article, as enacted
25 by Section 1 of this Act, with safeguards designed to eliminate, to the extent practicable,
26 the possibility that this information may jeopardize the personal safety of a physician and
27 the family of a physician.

28 SECTION 4. 3. AND BE IT FURTHER ENACTED, That this Act may be cited as
29 the "Consumer Health Information Act".

30 SECTION 5. 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 1997.