
By: **Delegates Morhaim and Bonsack**

Introduced and read first time: February 13, 1998

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Physician Quality Assurance - Disclosure of Physician's**
3 **Address of Record**

4 FOR the purpose of prohibiting the State Board of Physician Quality Assurance from
5 making a certain disclosure of the address of record of a physician unless the
6 physician provides the Board with a written authorization for the disclosure;
7 providing that this Act does not limit certain authority of the Board; making this
8 Act an emergency measure; and generally relating to a certain disclosure of a
9 physician's address of record by the State Board of Physician Quality Assurance.

10 BY repealing and reenacting, with amendments,
11 Article - Health Occupations
12 Section 14-411
13 Annotated Code of Maryland
14 (1994 Replacement Volume and 1997 Supplement)

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

17 **Article - Health Occupations**

18 14-411.

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

21 (b) Except as otherwise expressly provided in this section, the Board or any of
22 its investigatory bodies may not disclose any information contained in a record.

23 (c) Nothing in this section shall be construed to prevent or limit the disclosure
24 of general licensure, certification, or registration information maintained by the
25 Board, if the request for release complies with the criteria of § 10-617(h) of the State
26 Government Article.

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

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

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

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

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

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

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

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

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

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

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

30 (3) The Board shall, after formal action is taken pursuant to § 14-406 of
31 this subtitle, notify those hospitals, health maintenance organizations, or health care
32 facilities where the physician has privileges, has a provider contract with a health
33 maintenance organization, or is employed of its formal action within 10 days after the
34 action is taken and shall provide the hospital, health maintenance organization, or
35 health care facility with periodic reports as to enforcement or monitoring of a formal
36 disciplinary order against a physician within 10 days after receipt of those reports.

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

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

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

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

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

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

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

14 (i) (1) [The]EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
15 SUBSECTION, THE Board may disclose any information contained in a record to a
16 person if:

17 [(1)] (I) A licensed physician on whom any information is requested
18 authorizes the person to receive the disclosure;

19 [(2)] (II) The person requests the information in writing; and

20 [(3)] (III) The authorization for the disclosure is in writing.

21 (2) (I) THIS PARAGRAPH DOES NOT LIMIT THE AUTHORITY OF THE
22 BOARD TO DISCLOSE THE ADDRESS OF RECORD OF A PHYSICIAN WHERE OTHERWISE
23 REQUIRED OR ALLOWED UNDER THIS SECTION.

24 (II) UNLESS A LICENSED PHYSICIAN ON WHOM THE INFORMATION
25 IS REQUESTED PROVIDES THE BOARD WITH A WRITTEN AUTHORIZATION FOR
26 DISCLOSURE, THE BOARD MAY NOT DISCLOSE THE ADDRESS OF RECORD OF THE
27 PHYSICIAN UNDER THIS SUBSECTION TO ANY PERSON FOR ANY PURPOSE,
28 INCLUDING A PERSON THAT INTENDS TO USE THE PHYSICIAN'S ADDRESS OF RECORD
29 FOR TELEMARKETING OR FOR ANY OTHER COMMERCIAL PURPOSE.

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

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

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

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

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

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

9 (k) If the Board determines that the information contained in a record
10 concerns possible criminal activity, the Board shall disclose the information to a law
11 enforcement or prosecutorial official.

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

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

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

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

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

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

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

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

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

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

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

30 (iii) States that a breach of any condition of the agreement is a
31 breach of contract.

32 (m) On the request of a person who has testified in a Board or Office of
33 Administrative Hearings proceeding, the Board shall provide to the person who
34 testified a copy of the portion of the transcript of that person's testimony.

1 (n) (1) The Board may publish a summary of any allegations of grounds for
2 disciplinary or other action.

3 (2) A summary may not identify:

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

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

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

9 (o) The Board shall disclose information in a record upon the request of the
10 Governor, Secretary, or Legislative Auditor, in accordance with § 2-1223(a) of the
11 State Government Article. However, the Governor, Secretary, or Auditor, or any of
12 their employees may not disclose personally identifiable information from any of
13 these records which are otherwise confidential by law.

14 (p) This section does not apply to:

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

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

20 (q) If any information contained in any medical or hospital document or any
21 other exhibit is otherwise open for disclosure under law, the use of that document or
22 exhibit in any record of the Board or any of its investigatory bodies does not prevent
23 its disclosure in any other proceeding.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
25 measure, is necessary for the immediate preservation of the public health and safety,
26 has been passed by a ye and nay vote supported by three-fifths of all the members
27 elected to each of the two Houses of the General Assembly, and shall take effect from
28 the date it is enacted.