

---

By: **Delegates Morhaim and Bonsack**  
Introduced and read first time: February 13, 1998  
Assigned to: Environmental Matters

---

Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 23, 1998

---

CHAPTER \_\_\_\_\_

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 FOR the purpose of requiring the State Board of Physician Quality Assurance to  
11 include a physician's public address in a list of licensed physicians; requiring a  
12 physician to provide to the Board a nonpublic address under certain  
13 circumstances; requiring the Board to maintain a file of physicians' nonpublic  
14 addresses; requiring a physician to designate an address where the Board may  
15 send mail to the physician; establishing that a physician's nonpublic address is  
16 not a public record and may not be released; prohibiting the Board from  
17 releasing a list of applicants for licensure; and generally relating to the  
18 disclosure of information relating to physicians and applicants for physicians'  
19 licenses.

20 ~~BY repealing and reenacting, with amendments,~~  
21 ~~Article Health Occupations~~  
22 ~~Section 14-411~~  
23 ~~Annotated Code of Maryland~~  
24 ~~(1994 Replacement Volume and 1997 Supplement)~~

25 BY repealing and reenacting, with amendments,

1 Article - Health Occupations  
 2 Section 14-205(b)(2) and 14-309  
 3 Annotated Code of Maryland  
 4 (1994 Replacement Volume and 1997 Supplement)

5 BY adding to  
 6 Article - Health Occupations  
 7 Section 14-205(b)(3)  
 8 Annotated Code of Maryland  
 9 (1994 Replacement Volume and 1997 Supplement)

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

12 **Article - Health Occupations**

13 ~~14-411.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (2) (I) ~~THIS PARAGRAPH DOES NOT LIMIT THE AUTHORITY OF THE~~  
 12 ~~BOARD TO DISCLOSE THE ADDRESS OF RECORD OF A PHYSICIAN WHERE OTHERWISE~~  
 13 ~~REQUIRED OR ALLOWED UNDER THIS SECTION.~~

14 (II) ~~UNLESS A LICENSED PHYSICIAN ON WHOM THE INFORMATION~~  
 15 ~~IS REQUESTED PROVIDES THE BOARD WITH A WRITTEN AUTHORIZATION FOR~~  
 16 ~~DISCLOSURE, THE BOARD MAY NOT DISCLOSE THE ADDRESS OF RECORD OF THE~~  
 17 ~~PHYSICIAN UNDER THIS SUBSECTION TO ANY PERSON FOR ANY PURPOSE,~~  
 18 ~~INCLUDING A PERSON THAT INTENDS TO USE THE PHYSICIAN'S ADDRESS OF RECORD~~  
 19 ~~FOR TELEMARKETING OR FOR ANY OTHER COMMERCIAL PURPOSE.~~

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

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

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

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

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

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

34 (k) ~~If the Board determines that the information contained in a record~~  
 35 ~~concerns possible criminal activity, the Board shall disclose the information to a law~~  
 36 ~~enforcement or prosecutorial official.~~

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

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

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

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

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

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

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

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

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

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

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

19 (iii) States that a breach of any condition of the agreement is a  
20 breach of contract.

21 (m) On the request of a person who has testified in a Board or Office of  
22 Administrative Hearings proceeding, the Board shall provide to the person who  
23 testified a copy of the portion of the 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  
31 or any of its investigatory bodies.

32 (o) The Board shall disclose information in a record upon the request of the  
33 Governor, Secretary, or Legislative Auditor, in accordance with § 2-1223(a) of the

1 ~~State Government Article. However, the Governor, Secretary, or Auditor, or any of~~  
2 ~~their employees may not disclose personally identifiable information from any of~~  
3 ~~these records which are otherwise confidential by law.~~

4 ~~(p) This section does not apply to:~~

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

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

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

14 14-205.

15 (b) (2) (I) The Board shall keep a list of all physicians who are currently  
16 licensed.

17 (II) THE LIST SHALL INCLUDE EACH PHYSICIAN'S DESIGNATED  
18 PUBLIC ADDRESS.

19 (III) A PHYSICIAN'S DESIGNATED PUBLIC ADDRESS MAY BE A POST  
20 OFFICE BOX ONLY IF THE PHYSICIAN PROVIDES TO THE BOARD A NONPUBLIC  
21 ADDRESS, UNDER PARAGRAPH (3) OF THIS SUBSECTION, THAT IS NOT A POST OFFICE  
22 BOX.

23 (IV) Each list prepared under this [subsection] PARAGRAPH shall be  
24 kept as a permanent record of the Board.

25 (V) The list of currently licensed physicians is a public record.

26 (3) (I) THE BOARD SHALL MAINTAIN ON FILE A PHYSICIAN'S  
27 DESIGNATED NONPUBLIC ADDRESS, IF PROVIDED BY THE PHYSICIAN, TO  
28 FACILITATE COMMUNICATION BETWEEN THE PHYSICIAN AND THE BOARD.

29 (II) THE BOARD SHALL OFFER A PHYSICIAN THE OPPORTUNITY TO  
30 DESIGNATE A NONPUBLIC ADDRESS, IN ADDITION TO THE PHYSICIAN'S PUBLIC  
31 ADDRESS, AT THE TIME OF INITIAL LICENSURE AND LICENSE RENEWAL.

32 (III) A PHYSICIAN SHALL DESIGNATE AN ADDRESS WHERE THE  
33 BOARD MAY SEND THE PHYSICIAN MAIL.

34 (IV) A PHYSICIAN'S DESIGNATED NONPUBLIC ADDRESS IS NOT A  
35 PUBLIC RECORD AND MAY NOT BE RELEASED BY THE BOARD.

1 14-309.

2 (A) To apply for a license, an applicant shall:

3 (1) Submit an application to the Board on the form that the Board  
4 requires; and

5 (2) Pay to the Board the application fee set by the Board.

6 (B) THE BOARD MAY NOT RELEASE A LIST OF APPLICANTS FOR LICENSURE.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
8 ~~measure, is necessary for the immediate preservation of the public health and safety,~~  
9 ~~has been passed by a yea and nay vote supported by three-fifths of all the members~~  
10 ~~elected to each of the two Houses of the General Assembly, and shall take effect from~~  
11 ~~the date it is enacted shall take effect July 1, 1998.~~