
By: **Senator Hollinger (Chairman, Health Subcommittee) and the Economic and Environmental Affairs Committee and Senators Craig, Pinsky, Sfikas, and Conway**

Introduced and read first time: February 6, 1998
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 24, 1998

CHAPTER _____

1 AN ACT concerning

2 **State Board of Physician Quality Assurance - Licensure of Out-of-State**
3 **Physicians - "Telemedicine"**

4 FOR the purpose of altering the definition of "practice medicine"; altering a certain
5 ground for discipline; altering certain requirements for an out-of-state
6 physician who practices medicine across state lines; defining certain terms; and
7 generally relating to the licensure of out-of-state physicians who practice
8 medicine across state lines through electronic transmission or other specified
9 mechanisms into the State.

10 BY repealing and reenacting, with amendments,
11 Article - Health Occupations
12 Section 14-101(k), 14-302, and 14-404(a)(22)
13 Annotated Code of Maryland
14 (1994 Replacement Volume and 1997 Supplement)

15 BY adding to
16 Article - Health Occupations
17 Section 14-101(k-1)
18 Annotated Code of Maryland
19 (1994 Replacement Volume and 1997 Supplement)

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

1

Article - Health Occupations

2 14-101.

3 (k) (1) "Practice medicine" means to engage, with or without compensation,
4 in medical:

5 (i) Diagnosis;

6 (ii) Healing;

7 (iii) Treatment; or

8 (iv) Surgery.

9 (2) "Practice medicine" includes doing, undertaking, professing to do,
10 [and] attempting TO DO, OR, THROUGH ELECTRONIC TRANSMISSION OR OTHER
11 MECHANISMS OF INTERSTATE COMMERCE INTO THE STATE, PROVIDING any of the
12 following:

13 (i) Diagnosing, healing, treating, preventing, prescribing for, or
14 removing any physical, mental, or emotional ailment or supposed ailment of an
15 individual:

16 1. By physical, mental, emotional, or other process that is
17 exercised or invoked by the practitioner, the patient, or both; or

18 2. By appliance, test, drug, operation, or treatment;

19 (ii) Ending of a human pregnancy; and

20 (iii) Performing acupuncture.

21 (3) "Practice medicine" does not include:

22 (i) Selling any nonprescription drug or medicine;

23 (ii) Practicing as an optician; or

24 (iii) Performing a massage or other manipulation by hand, but by no
25 other means.

26 (K-1) (1) "PRIMARY DIAGNOSIS" MEANS THE DIAGNOSIS UPON WHICH
27 TREATMENT, THERAPY, OR PROGNOSIS IS BASED.

28 (2) "PRIMARY DIAGNOSIS" DOES NOT INCLUDE THE PERFORMANCE OR
29 REFERRAL OF A LABORATORY TEST, OTHER THAN ANATOMICAL PATHOLOGY, BY A
30 CLINICAL LABORATORY LICENSED IN THE STATE.

1 14-302.

2 Subject to the rules, regulations, and orders of the Board, the following
3 individuals may practice medicine without a license:

4 (1) A medical student or an individual in a postgraduate medical
5 training program that is approved by the Board, while doing the assigned duties at
6 any office of a licensed physician, hospital, clinic, or similar facility;

7 (2) A physician licensed by and residing in another jurisdiction, while
8 engaging in consultation with a physician licensed in this State THAT DOES NOT
9 RESULT IN A PRIMARY DIAGNOSIS;

10 (3) A physician employed in the service of the federal government while
11 performing the duties incident to that employment;

12 (4) A physician who resides in and is authorized to practice medicine by
13 any state adjoining this State and whose practice extends into this State, if:

14 (i) The physician does not have an office or other regularly
15 appointed place in this State to meet patients; and

16 (ii) The same privileges are extended to licensed physicians of this
17 State by the adjoining state; and

18 (5) An individual while under the supervision of a licensed physician
19 who has specialty training in psychiatry, and whose specialty training in psychiatry
20 has been approved by the Board, if the individual submits an application to the Board
21 on or before October 1, 1993, and either:

22 (i) 1. Has a master's degree from an accredited college or
23 university; and

24 2. Has completed a graduate program accepted by the Board
25 in a behavioral science that includes 1,000 hours of supervised clinical psychotherapy
26 experience; or

27 (ii) 1. Has a baccalaureate degree from an accredited college or
28 university; and

29 2. Has 4,000 hours of supervised clinical experience that is
30 approved by the Board.

31 14-404.

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

1 (22) Fails to meet appropriate standards as determined by appropriate
2 peer review for the delivery of quality medical and surgical care performed in an
3 outpatient surgical facility, office, hospital, or any other location [in this State];

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1998.