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By: **Delegates Redmer, Mitchell, Klausmeier, and Ports**  
Introduced and read first time: February 11, 2000  
Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupation Boards - Professional Disciplinary Actions**

3 FOR the purpose of establishing certain statutes of limitation for a certain individual  
4 for disciplinary violations under a health occupation board's statutory or  
5 regulatory provisions; establishing a right to counsel for a certain individual  
6 under certain circumstances; requiring a certain amount of time to pass before a  
7 counsel to a health occupation board may serve as a prosecutor in a disciplinary  
8 action for a health occupation board; requiring a health occupation board to  
9 comply with the Public Information Act or be subject to certain consequences;  
10 requiring contested cases in disciplinary actions of health occupation boards to  
11 be heard under provisions of the Administrative Procedure Act; providing for a  
12 retroactive effective date; and generally relating to a professional disciplinary  
13 action under a health occupation board.

14 BY adding to  
15 Article - Health Occupations  
16 Section 1-213 through 1-216  
17 Annotated Code of Maryland  
18 (1994 Replacement Volume and 1999 Supplement)

19 BY adding to  
20 Article - State Government  
21 Section 10-205.1  
22 Annotated Code of Maryland  
23 (1999 Replacement Volume)

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

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**Article - Health Occupations**

2 1-213.

3 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, ANY  
4 DISCIPLINARY ACTION OF AN APPLICANT, LICENSEE, OR CERTIFICATE HOLDER  
5 UNDER A HEALTH OCCUPATION BOARD'S STATUTORY OR REGULATORY PROVISIONS  
6 SHALL BE FILED WITHIN THE EARLIER OF:

7 (1) 5 YEARS OF THE TIME THE VIOLATION WAS COMMITTED; OR

8 (2) 3 YEARS OF THE TIME THE VIOLATION WAS DISCOVERED.

9 1-214.

10 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, AN APPLICANT,  
11 LICENSEE, OR CERTIFICATE HOLDER BEING INVESTIGATED OR CHARGED WITH A  
12 VIOLATION UNDER A HEALTH OCCUPATION BOARD'S STATUTORY OR REGULATORY  
13 PROVISIONS MAY BE REPRESENTED BY COUNSEL AT ANY TIME.

14 1-215.

15 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, UNTIL AT  
16 LEAST 3 YEARS HAVE PASSED AFTER LEAVING SERVICE AS COUNSEL TO A HEALTH  
17 OCCUPATION BOARD UNDER THIS ARTICLE, AN INDIVIDUAL MAY NOT SERVE AS A  
18 PROSECUTOR IN A DISCIPLINARY ACTION OF AN APPLICANT, LICENSEE, OR  
19 CERTIFICATE HOLDER UNDER A HEALTH OCCUPATION BOARD'S STATUTORY OR  
20 REGULATORY PROVISIONS.

21 1-216.

22 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, IF A HEALTH  
23 OCCUPATION BOARD VIOLATES ANY PROVISION TO PROVIDE ACCESS TO PUBLIC  
24 RECORDS UNDER TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT  
25 ARTICLE, AN APPLICANT, LICENSEE, OR CERTIFICATE HOLDER DURING A  
26 DISCIPLINARY ACTION MAY REQUEST UNDER THE ADMINISTRATIVE PROCEDURE  
27 ACT OR IN A CIRCUIT COURT:

28 (1) DISMISSAL OF THE DISCIPLINARY ACTION;

29 (2) A POSTPONEMENT OF THE DISCIPLINARY ACTION UNTIL A BOARD  
30 COMPLIES WITH THE PROVISIONS OF THIS SUBSECTION; AND

31 (3) ANY OTHER RELIEF NECESSARY TO PROTECT THE RIGHTS OF AN  
32 APPLICANT, LICENSEE, OR CERTIFICATE HOLDER.

**Article - State Government**

10-205.1.

(A) NOTWITHSTANDING ANY PROVISIONS OF THE HEALTH OCCUPATIONS ARTICLE, A BOARD, COMMISSION, OR AGENCY HEAD UNDER THE HEALTH OCCUPATIONS ARTICLE AUTHORIZED TO CONDUCT A CONTESTED CASE HEARING SHALL DELEGATE THE AUTHORITY TO CONDUCT THE CONTESTED CASE HEARING TO THE OFFICE.

(B) A BOARD, COMMISSION, OR AGENCY HEAD UNDER THE HEALTH OCCUPATIONS ARTICLE AUTHORIZED TO CONDUCT A CONTESTED CASE HEARING SHALL DELEGATE TO THE OFFICE THE AUTHORITY TO ISSUE:

- (1) PROPOSED OR FINAL FINDINGS OF FACT;
- (2) PROPOSED OR FINAL CONCLUSIONS OF LAW; AND
- (3) RECOMMENDED DISPOSITION OR PENALTY.

(C) THE BOARD, COMMISSION, OR AGENCY SHALL HAVE FINAL AUTHORITY WITH RESPECT TO THE DISPOSITION OR PENALTY FEES IMPOSED, BUT SHALL BE BOUND BY THE FINDINGS OF FACT AND CONCLUSIONS OF LAW, EXCEPT UPON CLEAR AND CONVINCING EVIDENCE TO THE CONTRARY.

(D) PROMPTLY AFTER RECEIPT OF A REQUEST FOR A CONTESTED CASE HEARING, A BOARD, COMMISSION, OR AGENCY HEAD UNDER THE HEALTH OCCUPATIONS ARTICLE SHALL TRANSMIT THE REQUEST TO THE OFFICE TO CONDUCT THE HEARING.

(E) (1) THE OFFICE SHALL:

(I) CONDUCT THE HEARING; AND

(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION OR AS OTHERWISE REQUIRED BY LAW, WITHIN 90 DAYS AFTER THE COMPLETION OF THE HEARING, COMPLETE THE HEARING PROCEDURE.

(2) THE TIME LIMIT SPECIFIED IN PARAGRAPH (1)(II) OF THIS SUBSECTION MAY BE EXTENDED WITH THE WRITTEN APPROVAL OF THE CHIEF ADMINISTRATIVE LAW JUDGE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed retroactively and shall be applied to and interpreted to affect the years beginning October 1, 1998.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2000.