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By: **Delegate Minnick**

Introduced and read first time: March 3, 2000

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Medical Directors - Regulation by Independent Board**

3 FOR the purpose of altering certain provisions of law relating to the regulation of  
4 certain medical directors; establishing a State Board of Medical Directors in the  
5 Insurance Administration; providing for the composition, terms of members,  
6 officers, quorum, meetings, and staff of the Board; requiring the Board to adopt  
7 certain regulations; requiring the Board to maintain a certain list and to submit  
8 a certain annual report; requiring individuals to hold certificates before acting  
9 as medical directors for health maintenance organizations in the State;  
10 providing for applications for certificates and the issuance, scope, and renewal of  
11 certificates; authorizing the Board to deny certificates, reprimand certificate  
12 holders, place certificate holders on probation, or suspend, revoke, or refuse to  
13 renew certificates under certain circumstances; authorizing the Board to consult  
14 with certain entities under certain circumstances; providing for certain  
15 hearings; establishing certain civil penalties; prohibiting certain acts and  
16 establishing certain criminal penalties; defining certain terms; providing for the  
17 initial terms of members of the Board; and generally relating to the certification  
18 and regulation of medical directors.

19 BY repealing

20 Article - Insurance

21 Section 15-10C-01 through 15-10C-04

22 Annotated Code of Maryland

23 (1997 Volume and 1999 Supplement)

24 BY adding to

25 Article - Insurance

26 Section 15-10C-01 through 15-10C-16

27 Annotated Code of Maryland

28 (1997 Volume and 1999 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

30 MARYLAND, That Section(s) 15-10C-01 through 15-10C-04, inclusive, of Article -

31 Insurance of the Annotated Code of Maryland be repealed.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
2 read as follows:

3 **Article - Insurance**

4 15-10C-01.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.

7 (B) "BOARD" MEANS THE STATE BOARD OF MEDICAL DIRECTORS.

8 (C) "CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE BOARD TO ACT AS  
9 A MEDICAL DIRECTOR FOR A HEALTH MAINTENANCE ORGANIZATION.

10 (D) "HEALTH MAINTENANCE ORGANIZATION" HAS THE MEANING STATED IN §  
11 19-701 OF THE HEALTH - GENERAL ARTICLE.

12 (E) (1) "MEDICAL DIRECTOR" MEANS A PHYSICIAN EMPLOYED BY OR UNDER  
13 CONTRACT WITH A HEALTH MAINTENANCE ORGANIZATION WHO IS RESPONSIBLE  
14 FOR:

15 (I) THE ESTABLISHMENT OR MAINTENANCE OF THE POLICIES AND  
16 PROCEDURES AT THE HEALTH MAINTENANCE ORGANIZATION FOR:

17 1. QUALITY ASSURANCE; AND

18 2. UTILIZATION REVIEW;

19 (II) COMPLIANCE WITH THE QUALITY ASSURANCE OR UTILIZATION  
20 REVIEW POLICIES AND PROCEDURES OF THE HEALTH MAINTENANCE  
21 ORGANIZATION; AND

22 (III) OVERSIGHT OF UTILIZATION REVIEW DECISIONS OF PRIVATE  
23 REVIEW AGENTS EMPLOYED BY OR UNDER CONTRACT WITH THE HEALTH  
24 MAINTENANCE ORGANIZATION.

25 (2) "MEDICAL DIRECTOR" INCLUDES AN ASSOCIATE MEDICAL DIRECTOR  
26 OR AN ASSISTANT MEDICAL DIRECTOR, AS DEFINED BY THE BOARD BY REGULATION.

27 (F) "PRIVATE REVIEW AGENT" HAS THE MEANING STATED IN § 15-10B-01 OF  
28 THIS TITLE.

29 (G) "UTILIZATION REVIEW" HAS THE MEANING STATED IN § 15-10B-01 OF THIS  
30 TITLE.

31 15-10C-02.

32 THERE IS A STATE BOARD OF MEDICAL DIRECTORS IN THE ADMINISTRATION.

1 15-10C-03.

2 (A) (1) THE BOARD CONSISTS OF SEVEN MEMBERS APPOINTED BY THE  
3 GOVERNOR.

4 (2) OF THE SEVEN BOARD MEMBERS:

5 (I) TWO SHALL BE CERTIFIED MEDICAL DIRECTORS WHO ARE  
6 EMPLOYED BY HEALTH MAINTENANCE ORGANIZATIONS;

7 (II) TWO SHALL BE MEDICAL DIRECTORS WHO ARE NOT EMPLOYED  
8 BY HEALTH MAINTENANCE ORGANIZATIONS;

9 (III) TWO SHALL BE LICENSED PHYSICIANS WHO ARE NOT MEDICAL  
10 DIRECTORS, ONE OF WHOM SHALL BE A MEMBER OF THE STATE BOARD OF  
11 PHYSICIAN QUALITY ASSURANCE; AND

12 (IV) ONE SHALL BE A CONSUMER MEMBER.

13 (B) THE CONSUMER MEMBER OF THE BOARD:

14 (1) SHALL BE A MEMBER OF THE GENERAL PUBLIC;

15 (2) MAY NOT BE OR EVER HAVE BEEN A PHYSICIAN OR IN TRAINING TO  
16 BECOME A PHYSICIAN;

17 (3) MAY NOT BE A MEDICAL DIRECTOR FOR A HEALTH MAINTENANCE  
18 ORGANIZATION;

19 (4) MAY NOT PARTICIPATE OR EVER HAVE PARTICIPATED IN A  
20 COMMERCIAL OR PROFESSIONAL FIELD RELATED TO MEDICINE;

21 (5) MAY NOT HAVE A HOUSEHOLD MEMBER WHO PARTICIPATES IN A  
22 COMMERCIAL OR PROFESSIONAL FIELD RELATED TO MEDICINE; AND

23 (6) MAY NOT HAVE HAD, WITHIN 2 YEARS BEFORE APPOINTMENT, A  
24 SUBSTANTIAL FINANCIAL INTEREST IN A PERSON REGULATED BY THE BOARD.

25 (C) (1) THE TERM OF A MEMBER IS 4 YEARS.

26 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE  
27 TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2000.

28 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A  
29 SUCCESSOR IS APPOINTED AND QUALIFIES.

30 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
31 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
32 QUALIFIES.

1 (D) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR  
2 MISCONDUCT.

3 15-10C-04.

4 (A) THE GOVERNOR SHALL APPOINT A CHAIRMAN OF THE BOARD FROM  
5 AMONG THE MEDICAL DIRECTOR MEMBERS ON THE BOARD.

6 (B) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT ANY OTHER  
7 OFFICERS THAT IT CONSIDERS NECESSARY.

8 (C) THE MANNER OF ELECTION OF OFFICERS, THEIR TERMS OF OFFICE, AND  
9 THEIR DUTIES SHALL BE AS THE BOARD DETERMINES.

10 15-10C-05.

11 (A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A  
12 QUORUM.

13 (B) THE BOARD SHALL MEET AT LEAST SIX TIMES EACH YEAR, AT THE TIMES  
14 AND PLACES THAT IT DETERMINES.

15 (C) EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR  
16 EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN  
17 THE STATE BUDGET.

18 (D) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE  
19 BUDGET.

20 15-10C-06.

21 (A) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE,  
22 INCLUDING REGULATIONS THAT ESTABLISH STANDARDS FOR:

23 (1) THE CERTIFICATION OF MEDICAL DIRECTORS;

24 (2) THE RENEWAL, SUSPENSION, AND REVOCATION OF CERTIFICATES;  
25 AND

26 (3) THE ISSUANCE OF TEMPORARY CERTIFICATES.

27 (B) (1) THE BOARD SHALL MAINTAIN A LIST OF ALL MEDICAL DIRECTORS  
28 WHO ARE CURRENTLY CERTIFIED BY THE BOARD.

29 (2) THE LIST OF CURRENTLY CERTIFIED MEDICAL DIRECTORS IS A  
30 PUBLIC RECORD.

31 (C) THE BOARD SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND  
32 THE COMMISSIONER THAT DESCRIBES ITS ACTIVITIES DURING THE PAST YEAR.

1 15-10C-07.

2 AN INDIVIDUAL SHALL HOLD A CERTIFICATE ISSUED BY THE BOARD BEFORE  
3 THE INDIVIDUAL MAY ACT AS A MEDICAL DIRECTOR FOR A HEALTH MAINTENANCE  
4 ORGANIZATION IN THE STATE.

5 15-10C-08.

6 (A) TO APPLY FOR A CERTIFICATE, AN APPLICANT SHALL:

7 (1) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM REQUIRED  
8 BY THE BOARD; AND

9 (2) PAY TO THE BOARD AN APPLICATION FEE OF NO MORE THAN \$100  
10 ESTABLISHED BY THE BOARD BY REGULATION.

11 (B) THE APPLICATION SHALL INCLUDE, AT A MINIMUM:

12 (1) A DESCRIPTION OF THE APPLICANT'S PROFESSIONAL  
13 QUALIFICATIONS, INCLUDING MEDICAL EDUCATION INFORMATION AND, IF  
14 APPROPRIATE, BOARD CERTIFICATIONS AND LICENSURE STATUS;

15 (2) THE UTILIZATION REVIEW PROCEDURES AND POLICIES TO BE USED  
16 BY THE HEALTH MAINTENANCE ORGANIZATION; AND

17 (3) CERTIFICATION BY THE MEDICAL DIRECTOR THAT THE UTILIZATION  
18 REVIEW PROCEDURES AND POLICIES TO BE USED BY THE HEALTH MAINTENANCE  
19 ORGANIZATION ARE:

20 (I) OBJECTIVE;

21 (II) CLINICALLY VALID;

22 (III) COMPATIBLE WITH ESTABLISHED PRINCIPLES OF HEALTH  
23 CARE; AND

24 (IV) FLEXIBLE ENOUGH TO ALLOW DEVIATIONS FROM THE NORMS  
25 WHEN JUSTIFIED ON A CASE BY CASE BASIS.

26 (C) THE APPLICATION FEES REQUIRED UNDER SUBSECTION (A)(2) OF THIS  
27 SECTION AND UNDER § 15-10C-11(B)(2)(II) OF THIS SUBTITLE SHALL BE SUFFICIENT  
28 TO PAY FOR THE ADMINISTRATIVE COSTS OF THE CERTIFICATION PROGRAM AND  
29 ANY OTHER COSTS ASSOCIATED WITH CARRYING OUT THIS SUBTITLE.

30 15-10C-09.

31 THE BOARD SHALL ISSUE A CERTIFICATE TO EACH APPLICANT WHO MEETS  
32 THE REQUIREMENTS OF THIS SUBTITLE.

1 15-10C-10.

2 (A) A CERTIFICATE ISSUED UNDER THIS SUBTITLE AUTHORIZES THE HOLDER  
3 TO ACT AS A MEDICAL DIRECTOR FOR A HEALTH MAINTENANCE ORGANIZATION  
4 WHILE THE CERTIFICATE IS IN EFFECT.

5 (B) AN INDIVIDUAL MAY BE EMPLOYED AS A MEDICAL DIRECTOR FOR A  
6 HEALTH MAINTENANCE ORGANIZATION ONLY IN THE NAME IN WHICH THE  
7 CERTIFICATE IS ISSUED.

8 15-10C-11.

9 (A) A CERTIFICATE EXPIRES ON THE DATE SET BY THE BOARD BY  
10 REGULATION UNLESS THE CERTIFICATE IS RENEWED FOR AN ADDITIONAL TERM AS  
11 PROVIDED IN THIS SECTION.

12 (B) AT LEAST 1 MONTH BEFORE A CERTIFICATE EXPIRES, THE BOARD SHALL  
13 MAIL TO THE HOLDER OF THE CERTIFICATE, AT THE LAST KNOWN ADDRESS OF THE  
14 HOLDER:

15 (1) A RENEWAL APPLICATION FORM; AND

16 (2) A NOTICE THAT STATES:

17 (I) THE DATE BY WHICH THE BOARD MUST RECEIVE THE  
18 RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE  
19 CERTIFICATE EXPIRES; AND

20 (II) THE AMOUNT OF THE RENEWAL FEE.

21 (C) BEFORE A CERTIFICATE EXPIRES, THE HOLDER OF THE CERTIFICATE MAY  
22 RENEW THE CERTIFICATE FOR AN ADDITIONAL TERM IF THE HOLDER:

23 (1) OTHERWISE IS ENTITLED TO THE CERTIFICATE;

24 (2) PAYS TO THE BOARD THE RENEWAL FEE SET BY THE BOARD BY  
25 REGULATION; AND

26 (3) SUBMITS TO THE BOARD:

27 (I) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD  
28 REQUIRES; AND

29 (II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY  
30 REQUIREMENT UNDER THIS SUBTITLE FOR CERTIFICATE RENEWAL.

31 (D) THE BOARD MAY ESTABLISH CONTINUING EDUCATION REQUIREMENTS  
32 AS A CONDITION OF THE RENEWAL OF CERTIFICATES UNDER THIS SUBTITLE.

33 (E) THE BOARD SHALL RENEW THE CERTIFICATE OF EACH HOLDER WHO  
34 MEETS THE REQUIREMENTS OF THIS SECTION.

1 15-10C-12.

2 (A) SUBJECT TO THE HEARING PROVISIONS OF § 15-10C-13 OF THIS SUBTITLE,  
3 THE BOARD ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN  
4 SERVING, MAY DENY A CERTIFICATE TO ANY APPLICANT, REPRIMAND ANY  
5 CERTIFIED MEDICAL DIRECTOR, PLACE ANY CERTIFIED MEDICAL DIRECTOR ON  
6 PROBATION, OR SUSPEND, REVOKE, OR REFUSE TO RENEW A CERTIFICATE IF THE  
7 APPLICANT OR CERTIFIED MEDICAL DIRECTOR:

8 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO  
9 OBTAIN A CERTIFICATE FOR THE APPLICANT OR CERTIFIED MEDICAL DIRECTOR OR  
10 FOR ANOTHER;

11 (2) FRAUDULENTLY OR DECEPTIVELY USES A CERTIFICATE;

12 (3) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A  
13 FELONY OR A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL  
14 OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE;

15 (4) PERFORMS UTILIZATION REVIEW FUNCTIONS WHILE:

16 (I) UNDER THE INFLUENCE OF ALCOHOL; OR

17 (II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS  
18 SUBSTANCE, AS DEFINED IN ARTICLE 27 OF THE CODE, OR ANY OTHER DRUG THAT IS  
19 IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

20 (5) FALSELY CERTIFIES THAT THE UTILIZATION REVIEW PROCEDURES  
21 AND POLICIES USED BY THE MEDICAL DIRECTOR IN MAKING UTILIZATION REVIEW  
22 DECISIONS, OR USED BY A PRIVATE REVIEW AGENT EMPLOYED BY OR UNDER  
23 CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION OVER WHOSE  
24 UTILIZATION REVIEW DECISIONS THE MEDICAL DIRECTOR HAS RESPONSIBILITY,  
25 ARE:

26 (I) OBJECTIVE;

27 (II) CLINICALLY VALID;

28 (III) COMPATIBLE WITH ESTABLISHED PRINCIPLES OF HEALTH  
29 CARE; OR

30 (IV) FLEXIBLE ENOUGH TO ALLOW DEVIATIONS FROM THE NORMS  
31 WHEN JUSTIFIED ON A CASE BY CASE BASIS;

32 (6) BEHAVES IMMORALLY IN THE PERFORMANCE OF UTILIZATION  
33 REVIEW OR QUALITY ASSURANCE FUNCTIONS;

34 (7) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY INCOMPETENT;

35 (8) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION  
36 ADOPTED BY THE BOARD UNDER THIS SUBTITLE; OR

1 (9) WILLFULLY ENGAGES IN CONDUCT THAT IS LIKELY TO DECEIVE,  
2 DEFRAUD, OR HARM THE PUBLIC.

3 (B) FOR PURPOSES OF TAKING AN ACTION DESCRIBED UNDER SUBSECTION  
4 (A) OF THIS SECTION, THE BOARD MAY CONSULT WITH AN INDEPENDENT REVIEW  
5 ORGANIZATION OR MEDICAL EXPERT THAT MEETS THE REQUIREMENTS OF §  
6 15-10A-05 OF THIS TITLE, OR ANY OTHER APPROPRIATE ENTITY.

7 (C) THE DELEGATION BY A MEDICAL DIRECTOR OF ANY OF THE MEDICAL  
8 DIRECTOR'S RESPONSIBILITIES UNDER THIS SUBTITLE TO AN ASSOCIATE MEDICAL  
9 DIRECTOR OR AN ASSISTANT MEDICAL DIRECTOR DOES NOT PREVENT THE MEDICAL  
10 DIRECTOR, REGARDLESS OF THE DELEGATION, FROM BEING HELD RESPONSIBLE  
11 FOR ANY VIOLATION OF THIS SUBTITLE.

12 15-10C-13.

13 (A) EXCEPT AS OTHERWISE PROVIDED IN THE ADMINISTRATIVE PROCEDURE  
14 ACT, BEFORE THE BOARD TAKES ANY ACTION UNDER § 15-10C-12 OF THIS SUBTITLE,  
15 IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN  
16 OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

17 (B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN  
18 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

19 (C) THE INDIVIDUAL MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

20 (D) THE BOARD MAY ISSUE SUBPOENAS IN CONNECTION WITH ANY  
21 INVESTIGATION OF CHARGES UNDER § 15-10C-12 OF THIS SUBTITLE OR ANY  
22 PROCEEDING UNDER THIS SECTION.

23 (E) IF AFTER DUE NOTICE THE INDIVIDUAL AGAINST WHOM THE ACTION IS  
24 CONTEMPLATED FAILS OR REFUSES TO APPEAR, NEVERTHELESS THE BOARD MAY  
25 HEAR AND DETERMINE THE MATTER.

26 15-10C-14.

27 (A) IF, AFTER A HEARING UNDER § 15-10C-13 OF THIS SUBTITLE, THE BOARD  
28 FINDS THAT THERE ARE GROUNDS UNDER § 15-10C-12 OF THIS SUBTITLE TO  
29 SUSPEND OR REVOKE A CERTIFICATE, THE BOARD MAY IMPOSE A PENALTY NOT  
30 EXCEEDING \$5,000:

31 (1) INSTEAD OF SUSPENDING OR REVOKING THE CERTIFICATE; OR

32 (2) IN ADDITION TO SUSPENDING OR REVOKING THE LICENSE.

33 (B) THE BOARD SHALL ADOPT REGULATIONS TO SET STANDARDS FOR THE  
34 IMPOSITION OF PENALTIES UNDER THIS SECTION.

35 (C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SECTION  
36 INTO THE GENERAL FUND OF THE STATE.



1 15-10C-15.

2 A PERSON MAY NOT ACT, ATTEMPT TO ACT, OR OFFER TO ACT AS A MEDICAL  
3 DIRECTOR FOR A HEALTH MAINTENANCE ORGANIZATION IN THE STATE UNLESS THE  
4 PERSON HOLDS A CERTIFICATE ISSUED BY THE BOARD.

5 15-10C-16.

6 A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A  
7 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR  
8 IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

9 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial  
10 members of the State Board of Medical Directors shall expire as follows:

- 11 (1) two members in 2001;
- 12 (2) two members in 2002;
- 13 (3) two members in 2003; and
- 14 (4) one member in 2004.

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2000.