

SENATE BILL 76

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2000 Regular Session  
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(PRE-FILED)

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By: **Chairman, Economic and Environmental Affairs Committee**  
**(Departmental - Health and Mental Hygiene)**

Requested: November 15, 1999

Introduced and read first time: January 12, 2000

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Physician Quality Assurance - Practice of Medicine -**  
3 **"Telemedicine"**

4 FOR the purpose of altering the definition of "practice medicine" to include providing  
5 certain services by electronic transmission or other specified mechanisms into  
6 the State; authorizing the State Board of Physician Quality Assurance to issue a  
7 special purpose license to practice medicine across state lines through electronic  
8 transmission or other specified mechanisms into the State; specifying the  
9 qualifications of an applicant for a special purpose license; requiring an  
10 applicant for a special purpose license to pay a certain application fee;  
11 authorizing certain individuals to practice medicine without a special purpose  
12 license; establishing the term and renewal of a special purpose license;  
13 subjecting the holder of a special purpose license to certain conditions;  
14 authorizing the Board to discipline the holder of a special purpose license;  
15 requiring the Board to adopt certain regulations; defining a certain term; and  
16 generally relating to the authority of the Board of Physician Quality Assurance  
17 to issue a special purpose license to practice medicine across state lines through  
18 electronic transmission or other specified mechanisms into the State.

19 BY repealing and reenacting, with amendments,  
20 Article - Health Occupations  
21 Section 14-101(k)  
22 Annotated Code of Maryland  
23 (1994 Replacement Volume and 1999 Supplement)

24 BY adding to  
25 Article - Health Occupations  
26 Section 14-322  
27 Annotated Code of Maryland  
28 (1994 Replacement Volume and 1999 Supplement)

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

3 **Article - Health Occupations**

4 14-101.

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

7 (i) Diagnosis;

8 (ii) Healing;

9 (iii) Treatment; or

10 (iv) Surgery.

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

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

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

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

21 (ii) Ending of a human pregnancy; and

22 (iii) Performing acupuncture.

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

24 (i) Selling any nonprescription drug or medicine;

25 (ii) Practicing as an optician; or

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

28 14-322.

29 (A) IN THIS SECTION, "SPECIAL PURPOSE LICENSE" MEANS A LICENSE ISSUED  
30 BY THE BOARD TO PRACTICE MEDICINE ACROSS STATE LINES THROUGH  
31 ELECTRONIC TRANSMISSION OR OTHER MECHANISMS OF INTERSTATE COMMERCE  
32 INTO THE STATE.

1 (B) (1) THE BOARD SHALL ISSUE A SPECIAL PURPOSE LICENSE ONLY TO AN  
2 APPLICANT WHO:

3 (I) HOLDS AN ACTIVE, FULL, AND UNRESTRICTED LICENSE TO  
4 PRACTICE MEDICINE IN ANY STATE OF THE UNITED STATES;

5 (II) IS NOT OTHERWISE LICENSED TO PRACTICE MEDICINE IN THIS  
6 STATE;

7 (III) HAS HAD NO DISCIPLINARY OR ANY OTHER ACTION TAKEN  
8 AGAINST THE APPLICANT BY ANY OTHER STATE OF THE UNITED STATES;

9 (IV) SUBMITS AN APPLICATION TO THE BOARD ON A FORM THAT  
10 THE BOARD REQUIRES;

11 (V) PAYS TO THE BOARD THE APPLICATION FEE FOR THE SPECIAL  
12 PURPOSE LICENSE AS SET BY THE BOARD; AND

13 (VI) MEETS ANY OTHER QUALIFICATIONS THAT THE BOARD  
14 ESTABLISHES IN ITS REGULATIONS FOR LICENSURE.

15 (2) THE BOARD MAY, IN ITS DISCRETION, ISSUE A SPECIAL PURPOSE  
16 LICENSE IF IT FINDS THAT ANY PREVIOUS DISCIPLINARY OR OTHER ACTION TAKEN  
17 AGAINST THE APPLICANT DOES NOT INDICATE THE PHYSICIAN IS A POTENTIAL  
18 THREAT TO THE PUBLIC; AND

19 (3) THE BOARD MAY, IN ITS DISCRETION, QUALIFY, RESTRICT, OR  
20 OTHERWISE LIMIT A LICENSE GRANTED UNDER THIS SECTION.

21 (C) SUBJECT TO THE RULES, REGULATIONS, AND ORDERS OF THE BOARD, THE  
22 FOLLOWING INDIVIDUALS MAY PRACTICE MEDICINE WITHOUT A SPECIAL PURPOSE  
23 LICENSE:

24 (1) AN OUT-OF-STATE PHYSICIAN WHO ENGAGES IN THE PRACTICE OF  
25 MEDICINE ACROSS STATE LINES IN AN EMERGENCY; AND

26 (2) AN OUT-OF-STATE PHYSICIAN WHO, WITHOUT COMPENSATION OR  
27 THE EXPECTATION OF COMPENSATION, ENGAGES IN A DISCUSSION REGARDING A  
28 PATIENT WITH A PHYSICIAN LICENSED IN THIS STATE.

29 (D) A SPECIAL PURPOSE LICENSE ISSUED BY THE BOARD LIMITS THE HOLDER  
30 OF THE LICENSE SOLELY TO THE PRACTICE OF MEDICINE ACROSS STATE LINES AS  
31 DEFINED IN THIS SUBTITLE WHEN:

32 (1) THE PATIENT IS UNDER THE DIRECT CARE OF A LICENSED  
33 PHYSICIAN LOCATED IN THIS STATE; AND

34 (2) THE LICENSED PHYSICIAN MAKES THE REFERRAL TO THE  
35 PHYSICIAN LOCATED OUTSIDE THIS STATE.

1 (E) THE TERM AND RENEWAL OF A SPECIAL PURPOSE LICENSE SHALL BE AS  
2 PROVIDED UNDER § 14-316 OF THIS SUBTITLE.

3 (F) THE ISSUANCE OF A SPECIAL PURPOSE LICENSE SUBJECTS THE HOLDER  
4 OF THE LICENSE TO:

5 (1) THE JURISDICTION OF THE BOARD IN ALL MATTERS SET FORTH IN  
6 THE MEDICAL PRACTICE ACT AND THE RULES AND REGULATIONS THAT HAVE BEEN  
7 ADOPTED TO IMPLEMENT THE ACT, INCLUDING ALL MATTERS RELATING TO  
8 DISCIPLINE OF PHYSICIANS;

9 (2) ALL STATE LAWS, RULES, AND REGULATIONS GOVERNING THE  
10 MAINTENANCE AND CONFIDENTIALITY OF MEDICAL RECORDS, NOTWITHSTANDING  
11 THE LAWS, RULES, AND REGULATIONS GOVERNING THE MAINTENANCE AND  
12 CONFIDENTIALITY OF MEDICAL RECORDS OF THE STATE WHERE THE HOLDER OF  
13 THE LICENSE IS LOCATED;

14 (3) PRODUCE PATIENT RECORDS AND MATERIALS AS REQUESTED BY  
15 THE BOARD; AND

16 (4) APPEAR BEFORE THE BOARD OR ANY OF ITS COMMITTEES  
17 FOLLOWING RECEIPT OF A WRITTEN NOTICE ISSUED BY THE BOARD.

18 (G) SUBJECT TO THE HEARING PROVISIONS OF § 14-404 OF THIS TITLE, ON  
19 THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS FULLY AUTHORIZED MEMBERSHIP,  
20 THE BOARD MAY REPRIMAND, IMPOSE A MONETARY PENALTY, PLACE ANY HOLDER  
21 OF A SPECIAL PURPOSE LICENSE ON PROBATION, OR SUSPEND OR REVOKE A  
22 SPECIAL PURPOSE LICENSE FOR ANY OF THE GROUNDS FOR BOARD ACTION UNDER §  
23 14-404 OF THIS TITLE.

24 (H) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS  
25 OF THIS SECTION.

26 (I) IN ACCORDANCE WITH § 14-401 OF THIS TITLE, THE BOARD MAY CONSULT  
27 WITH THE APPROPRIATE MEDICAL SPECIALTY BOARD OR BOARDS IN  
28 INVESTIGATIONS RELATING TO THE STANDARD OF MEDICAL CARE ACROSS STATE  
29 LINES.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2000.