
By: **Delegates Busch and Hurson**
Introduced and read first time: February 9, 2001
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Medical Directors - Regulation**

3 FOR the purpose of altering the circumstances under which the Insurance
4 Commissioner may take certain action against a certain medical director;
5 requiring the Commissioner to notify the Board of Physician Quality Assurance
6 of a certain action; authorizing the Board to contract with a certain independent
7 review organization for certain purposes; requiring the Board to refer a certain
8 allegation to a certain independent review organization under certain
9 circumstances; establishing a violation for which the Board may take certain
10 action against a certain licensee; and generally relating to the regulation of
11 medical directors.

12 BY repealing and reenacting, with amendments,
13 Article - Health Occupations
14 Section 14-401 and 14-404
15 Annotated Code of Maryland
16 (2000 Replacement Volume)

17 BY repealing and reenacting, with amendments,
18 Article - Insurance
19 Section 15-10C-04
20 Annotated Code of Maryland
21 (1997 Volume and 2000 Supplement)

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

24 **Article - Health Occupations**

25 14-401.

26 (a) The Board shall perform any necessary preliminary investigation before
27 the Board refers to an investigatory body an allegation of grounds for disciplinary or
28 other action brought to its attention.

1 (b) If an allegation of grounds for disciplinary or other action is made by a
2 patient or a family member of a patient in a standard of care case and a full
3 investigation results from that allegation, the full investigation shall include an offer
4 of an interview with the patient or a family member of the patient who was present on
5 or about the time that the incident that gave rise to the allegation occurred.

6 (c) (1) Except as otherwise provided in this subsection, after performing any
7 necessary preliminary investigation of an allegation of grounds for disciplinary or
8 other action, the Board may:

9 (i) Refer the allegation for further investigation to the Faculty;

10 (ii) Take any appropriate and immediate action as necessary; or

11 (iii) Come to an agreement for corrective action with a licensee
12 pursuant to paragraph (4) of this subsection.

13 (2) (i) [After] EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS
14 SUBSECTION, AFTER performing any necessary preliminary investigation of an
15 allegation of grounds for disciplinary or other action, the Board shall refer any
16 allegation involving standards of medical care, as determined by the Board, and any
17 allegation based on § 14-404(a)(19) to the Faculty for further investigation and
18 physician peer review within the involved medical specialty or specialties.

19 (ii) The Faculty may refer the allegation for investigation and
20 report to the appropriate:

21 1. County medical society; or

22 2. Committee of the Faculty.

23 (3) If, after performing any necessary preliminary investigation, the
24 Board determines that an allegation involving fees for professional or ancillary
25 services does not constitute grounds for disciplinary or other action, the Board shall
26 offer the complainant and the licensee an opportunity to mediate the dispute.

27 (4) (i) If the Board determines that an agreement for corrective action
28 is warranted and patient safety is not an issue, the Board shall notify the licensee of
29 the identified deficiencies and enter into an agreement for corrective action, which
30 may not be made public and which shall not be considered a disciplinary action for
31 purposes of this subtitle.

32 (ii) The Board shall subsequently evaluate the licensee and shall:

33 1. Terminate the corrective action if the Board is satisfied
34 that the licensee is in compliance with the agreement for corrective action and has
35 corrected the deficiencies; or

1 (ii) Contract with others for the purchase of investigatory,
2 mediation, and related services and make these services available to the Faculty, its
3 committees, and the component medical societies.

4 (2) Services that may be contracted for under this subsection include the
5 services of:

- 6 (i) Investigators;
- 7 (ii) Attorneys;
- 8 (iii) Accountants;
- 9 (iv) Expert witnesses;
- 10 (v) Consultants; and
- 11 (vi) Mediators.

12 (g) The Board may issue subpoenas and administer oaths in connection with
13 any investigation under this section and any hearing or proceeding before it.

14 (h) Those individuals not licensed under this title but covered under §
15 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of §
16 14-405 of this subtitle.

17 (i) (1) It is the intent of this section that the disposition of every complaint
18 against a licensee that sets forth allegations of grounds for disciplinary action filed
19 with the Board shall be completed as expeditiously as possible and, in any event,
20 within 18 months after the complaint was received by the Board.

21 (2) If the Board is unable to complete the disposition of a complaint
22 within 1 year, the Board shall include in the record of that complaint a detailed
23 explanation of the reason for the delay.

24 14-404.

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

- 29 (1) Fraudulently or deceptively obtains or attempts to obtain a license
30 for the applicant or licensee or for another;
- 31 (2) Fraudulently or deceptively uses a license;
- 32 (3) Is guilty of immoral or unprofessional conduct in the practice of
33 medicine;
- 34 (4) Is professionally, physically, or mentally incompetent;

- 1 (5) Solicits or advertises in violation of § 14-505 of this title;
- 2 (6) Abandons a patient;
- 3 (7) Habitually is intoxicated;
- 4 (8) Is addicted to, or habitually abuses, any narcotic or controlled
5 dangerous substance as defined in Article 27 of the Code;
- 6 (9) Provides professional services:
- 7 (i) While under the influence of alcohol; or
- 8 (ii) While using any narcotic or controlled dangerous substance, as
9 defined in Article 27 of the Code, or other drug that is in excess of therapeutic
10 amounts or without valid medical indication;
- 11 (10) Promotes the sale of drugs, devices, appliances, or goods to a patient
12 so as to exploit the patient for financial gain;
- 13 (11) Willfully makes or files a false report or record in the practice of
14 medicine;
- 15 (12) Willfully fails to file or record any medical report as required under
16 law, willfully impedes or obstructs the filing or recording of the report, or induces
17 another to fail to file or record the report;
- 18 (13) On proper request, and in accordance with the provisions of Title 4,
19 Subtitle 3 of the Health - General Article, fails to provide details of a patient's
20 medical record to the patient, another physician, or hospital;
- 21 (14) Solicits professional patronage through an agent or other person or
22 profits from the acts of a person who is represented as an agent of the physician;
- 23 (15) Pays or agrees to pay any sum to any person for bringing or referring
24 a patient or accepts or agrees to accept any sum from any person for bringing or
25 referring a patient;
- 26 (16) Agrees with a clinical or bioanalytical laboratory to make payments
27 to the laboratory for a test or test series for a patient, unless the licensed physician
28 discloses on the bill to the patient or third-party payor:
- 29 (i) The name of the laboratory;
- 30 (ii) The amount paid to the laboratory for the test or test series; and
- 31 (iii) The amount of procurement or processing charge of the licensed
32 physician, if any, for each specimen taken;
- 33 (17) Makes a willful misrepresentation in treatment;

1 (18) Practices medicine with an unauthorized person or aids an
2 unauthorized person in the practice of medicine;

3 (19) Grossly overutilizes health care services;

4 (20) Offers, undertakes, or agrees to cure or treat disease by a secret
5 method, treatment, or medicine;

6 (21) Is disciplined by a licensing or disciplinary authority or convicted or
7 disciplined by a court of any state or country or disciplined by any branch of the
8 United States uniformed services or the Veterans' Administration for an act that
9 would be grounds for disciplinary action under this section;

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

13 (23) Willfully submits false statements to collect fees for which services
14 are not provided;

15 (24) Was subject to investigation or disciplinary action by a licensing or
16 disciplinary authority or by a court of any state or country for an act that would be
17 grounds for disciplinary action under this section and the licensee:

18 (i) Surrendered the license issued by the state or country to the
19 state or country; or

20 (ii) Allowed the license issued by the state or country to expire or
21 lapse;

22 (25) Knowingly fails to report suspected child abuse in violation of § 5-704
23 of the Family Law Article;

24 (26) Fails to educate a patient being treated for breast cancer of
25 alternative methods of treatment as required by § 20-113 of the Health - General
26 Article;

27 (27) Sells, prescribes, gives away, or administers drugs for illegal or
28 illegitimate medical purposes;

29 (28) Fails to comply with the provisions of § 12-102 of this article;

30 (29) Refuses, withholds from, denies, or discriminates against an
31 individual with regard to the provision of professional services for which the licensee
32 is licensed and qualified to render because the individual is HIV positive;

33 (30) Except as to an association that has remained in continuous
34 existence since July 1, 1963:

35 (i) Associates with a pharmacist as a partner or co-owner of a
36 pharmacy for the purpose of operating a pharmacy;

- 1 (ii) Employs a pharmacist for the purpose of operating a pharmacy;
2 or
- 3 (iii) Contracts with a pharmacist for the purpose of operating a
4 pharmacy;
- 5 (31) Except in an emergency life-threatening situation where it is not
6 feasible or practicable, fails to comply with the Centers for Disease Control's
7 guidelines on universal precautions;
- 8 (32) Fails to display the notice required under § 14-415 of this title;
- 9 (33) Fails to cooperate with a lawful investigation conducted by the
10 Board;
- 11 (34) Is convicted of insurance fraud as defined in § 27-801 of the
12 Insurance Article;
- 13 (35) Is in breach of a service obligation resulting from the applicant's or
14 licensee's receipt of State or federal funding for the licensee's medical education;
- 15 (36) Willfully makes a false representation when seeking or making
16 application for licensure or any other application related to the practice of medicine;
- 17 (37) By corrupt means, threats, or force, intimidates or influences, or
18 attempts to intimidate or influence, for the purpose of causing any person to withhold
19 or change testimony in hearings or proceedings before the Board or those otherwise
20 delegated to the Office of Administrative Hearings;
- 21 (38) By corrupt means, threats, or force, hinders, prevents, or otherwise
22 delays any person from making information available to the Board in furtherance of
23 any investigation of the Board;
- 24 (39) Intentionally misrepresents credentials for the purpose of testifying
25 or rendering an expert opinion in hearings or proceedings before the Board or those
26 otherwise delegated to the Office of Administrative Hearings; [or]
- 27 (40) Fails to keep adequate medical records as determined by appropriate
28 peer review; OR
- 29 (41) FAILS TO MEET APPROPRIATE STANDARDS OF QUALITY MEDICAL
30 CARE AS REFLECTED BY A DETERMINATION OF THE INSURANCE COMMISSIONER IN
31 ACCORDANCE WITH § 15-10C-04(A)(2) OF THE INSURANCE ARTICLE.
- 32 (b) (1) On the filing of certified docket entries with the Board by the Office
33 of the Attorney General, the Board shall order the suspension of a license if the
34 licensee is convicted of or pleads guilty or nolo contendere with respect to a crime
35 involving moral turpitude, whether or not any appeal or other proceeding is pending
36 to have the conviction or plea set aside.

