

SENATE BILL 418

Unofficial Copy
J2

2002 Regular Session
2r1826
CF 2r0688

By: **Senator Hollinger (Chairman, Health Subcommittee)**
Introduced and read first time: January 30, 2002
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable
Senate action: Adopted
Read second time: February 27, 2002

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations - State Board of Pharmacy - Sunset Extension**

3 FOR the purpose of continuing the State Board of Pharmacy in accordance with the
4 provisions of the Maryland Program Evaluation Act (Sunset Law) by extending
5 to a certain date the termination provisions relating to the statutory and
6 regulatory authority of the Board; repealing a certain requirement for a certain
7 manufacturing permit and related provisions of law; making certain technical
8 changes; requiring an annual inspection of each pharmacy that holds a
9 pharmacy permit issued by the Board; limiting discovery by establishing that a
10 certain committee or individual be considered a medical review committee;
11 requiring that an evaluation of the Board and the statutes and regulations that
12 relate to the Board be performed on or before a certain date; requiring the Board
13 to submit a certain report to certain committees on or before a certain date; and
14 generally relating to the State Board of Pharmacy.

15 BY repealing
16 Article - Health Occupations
17 Section 12-601
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2001 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article - Health Occupations
22 Section 12-201 and 14-501(c) through (g)
23 Annotated Code of Maryland
24 (2000 Replacement Volume and 2001 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Health Occupations
3 Section 12-101(g)(2) and (p)(2), 12-601.1, 12-604, 12-707(b), 12-802, and
4 14-501(b)
5 Annotated Code of Maryland
6 (2000 Replacement Volume and 2001 Supplement)

7 BY repealing and reenacting, without amendments,
8 Article - State Government
9 Section 8-403(a)
10 Annotated Code of Maryland
11 (1999 Replacement Volume and 2001 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - State Government
14 Section 8-403(b)(47)
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2001 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That Section(s) 12-601 of Article - Health Occupations of the
19 Annotated Code of Maryland be repealed.

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

22 **Article - Health Occupations**

23 12-101.

24 (g) (2) "Distribute" does not include the operations of a person who holds a
25 permit issued under [§§ 12-601 and] § 12-602 of this title.

26 (p) (2) "Practice pharmacy" does not include the operations of a person who
27 holds a permit issued under [§§ 12-601 and] § 12-602 of this title.

28 12-201.

29 There is a State Board of Pharmacy in the Department.

30 [12-601.1.] 12-601.

31 (a) Subject to the hearing provisions of § 12-315 of this title, for a violation of
32 this subtitle or any regulation adopted under [§ 12-601 or] § 12-602 of this subtitle,
33 the Board may:

34 (1) Deny a permit to an applicant;

- 1 (2) Reprimand a permit holder;
- 2 (3) Place a permit holder on probation; or
- 3 (4) Suspend or revoke a permit.

4 (b) A person aggrieved by a final action of the Board under this subtitle may
5 not appeal to the Secretary or the Board of Review but may appeal as provided under
6 Title 10, Subtitle 2 of the State Government Article.

7 12-604.

8 (a) The Secretary, the Board, or the agents of either, during business hours,
9 may:

- 10 (1) Enter any place where drugs, devices, diagnostics, cosmetics,
11 dentifrices, domestic remedies, or toilet articles are manufactured, packaged, stocked,
12 or offered for sale; and
- 13 (2) Inspect the drugs, devices, diagnostics, cosmetics, dentifrices,
14 domestic remedies, and toilet articles there.

15 (b) ANY PHARMACY ISSUED A PERMIT BY THE BOARD AND SUBJECT TO
16 INSPECTION UNDER SUBSECTION (A) OF THIS SECTION SHALL BE INSPECTED
17 ANNUALLY.

18 (C) A person may not hinder an inspection conducted under this section.

19 12-707.

20 (b) A person who violates any provision of the following sections of this title is
21 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
22 imprisonment not exceeding 1 year or both:

- 23 (1) [§ 12-601 ("Manufacturing and packaging");
- 24 (2)] § 12-602 ("Distribution permits");
- 25 [(3)] (2) § 12-701 ("Practicing pharmacy without license");
- 26 [(4)] (3) § 12-702 ("License obtained by false representation");
- 27 [(5)] (4) § 12-703 ("Operating a pharmacy without permit"); and
- 28 [(6)] (5) § 12-704 ("Misrepresentations").

29 12-802.

30 Subject to the evaluation and reestablishment provisions of the Program
31 Evaluation Act, this title and all rules and regulations adopted under this title shall
32 terminate and be of no effect after July 1, [2003] 2013.

1 14-501.

2 (b) For purposes of this section, a medical review committee is:

3 (1) A regulatory board or agency established by State or federal law to
4 license, certify, or discipline any provider of health care;

5 (2) A committee of the Faculty or any of its component societies or a
6 committee of any other professional society or association composed of providers of
7 health care;

8 (3) A committee appointed by or established in a local health department
9 for review purposes;

10 (4) A committee appointed by or established in the Maryland Institute
11 for Emergency Medical Services Systems;

12 (5) A committee of the medical staff or other committee, including any
13 risk management, credentialing, or utilization review committee established in
14 accordance with § 19-319 of the Health - General Article, of a hospital, related
15 institution, or alternative health care system, if the governing board of the hospital,
16 related institution, or alternative health care system forms and approves the
17 committee or approves the written bylaws under which the committee operates;

18 (6) A COMMITTEE OR INDIVIDUAL DESIGNATED BY THE HOLDER OF A
19 PHARMACY PERMIT, AS DEFINED IN § 12-101 OF THIS ARTICLE, THAT PERFORMS THE
20 FUNCTIONS LISTED IN SUBSECTION (C) OF THIS SECTION, AS PART OF A PHARMACY'S
21 ONGOING QUALITY ASSURANCE PROGRAM;

22 (7) Any person, including a professional standard review organization,
23 who contracts with an agency of this State or of the federal government to perform
24 any of the functions listed in subsection (c) of this section;

25 [(7)] (8) Any person who contracts with a provider of health care to
26 perform any of those functions listed in subsection (c) of this section that are limited
27 to the review of services provided by the provider of health care;

28 [(8)] (9) An organization, established by the Maryland Hospital
29 Association, Inc. and the Faculty, that contracts with a hospital, related institution, or
30 alternative delivery system to:

31 (i) Assist in performing the functions listed in subsection (c) of this
32 section; or

33 (ii) Assist a hospital in meeting the requirements of § 19-319(e) of
34 the Health - General Article;

35 [(9)] (10) A committee appointed by or established in an accredited health
36 occupations school;

1 [(10)] (11) An organization described under § 14-501.1 of this subtitle that
2 contracts with a hospital, related institution, or health maintenance organization to:

3 (i) Assist in performing the functions listed in subsection (c) of this
4 section; or

5 (ii) Assist a health maintenance organization in meeting the
6 requirements of Title 19, Subtitle 7 of the Health - General Article, the National
7 Committee for Quality Assurance (NCQA), or any other applicable credentialing law
8 or regulation;

9 [(11)] (12) An accrediting organization as defined in § 14-501.1 of this
10 subtitle; or

11 [(12)] (13) A Mortality Review Committee established under § 5-801 of the
12 Health - General Article.

13 (c) For purposes of this section, a medical review committee:

14 (1) Evaluates and seeks to improve the quality of health care provided by
15 providers of health care;

16 (2) Evaluates the need for and the level of performance of health care
17 provided by providers of health care;

18 (3) Evaluates the qualifications, competence, and performance of
19 providers of health care; or

20 (4) Evaluates and acts on matters that relate to the discipline of any
21 provider of health care.

22 (d) (1) Except as otherwise provided in this section, the proceedings,
23 records, and files of a medical review committee are not discoverable and are not
24 admissible in evidence in any civil action.

25 (2) The proceedings, records, and files of a medical review committee are
26 confidential and are not discoverable and are not admissible in evidence in any civil
27 action arising out of matters that are being reviewed and evaluated by the medical
28 review committee if requested by the following:

29 (i) The Department of Health and Mental Hygiene to ensure
30 compliance with the provisions of § 19-319 of the Health - General Article;

31 (ii) A health maintenance organization to ensure compliance with
32 the provisions of Title 19, Subtitle 7 of the Health - General Article and applicable
33 regulations;

34 (iii) A health maintenance organization to ensure compliance with
35 the National Committee for Quality Assurance (NCQA) credentialing requirements;
36 or

1 (iv) An accrediting organization to ensure compliance with
2 accreditation requirements or the procedures and policies of the accrediting
3 organization.

4 (3) If the proceedings, records, and files of a medical review committee
5 are requested by any person from any of the entities in paragraph (2) of this
6 subsection:

7 (i) The person shall give the medical review committee notice by
8 certified mail of the nature of the request and the medical review committee shall be
9 granted a protective order preventing the release of its proceedings, records, and files;
10 and

11 (ii) The entities listed in paragraph (2) of this subsection may not
12 release any of the proceedings, records, and files of the medical review committee.

13 (e) Subsection (d)(1) of this section does not apply to:

14 (1) A civil action brought by a party to the proceedings of the medical
15 review committee who claims to be aggrieved by the decision of the medical review
16 committee; or

17 (2) Any record or document that is considered by the medical review
18 committee and that otherwise would be subject to discovery and introduction into
19 evidence in a civil trial.

20 (f) A person shall have the immunity from liability described under § 5-637 of
21 the Courts and Judicial Proceedings Article for any action as a member of the medical
22 review committee or for giving information to, participating in, or contributing to the
23 function of the medical review committee.

24 (g) Notwithstanding this section, §§ 14-410 and 14-412 of this title apply to:

25 (1) The Board; and

26 (2) Any other entity, to the extent that it is acting in an investigatory
27 capacity for the Board.

28 **Article - State Government**

29 8-403.

30 (a) On or before December 15 of the 2nd year before the evaluation date of a
31 governmental activity or unit, the Legislative Policy Committee, based on a
32 preliminary evaluation, may waive as unnecessary the evaluation required under this
33 section.

34 (b) Except as otherwise provided in subsection (a) of this section, on or before
35 the evaluation date for the following governmental activities or units, an evaluation

1 shall be made of the following governmental activities or units and the statutes and
2 regulations that relate to the governmental activities or units:

3 (47) Pharmacy, State Board of (§ 12-201 of the Health Occupations
4 Article: July 1, [2002] 2012);

5 SECTION 3. AND BE IT FURTHER ENACTED, That the State Board of
6 Pharmacy shall report to the Senate Education, Health, and Environmental Affairs
7 Committee and the House Environmental Matters Committee on or before October 1,
8 2002, in accordance with § 2-1246 of the State Government Article, on the
9 implementation of the recommendations of the Department of Legislative Services
10 contained in the sunset evaluation report dated October 2001.

11 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2002.