

SENATE BILL 421

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2002 Regular Session
(2r1954)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Environmental Matters --

Introduced by **Senator Hollinger**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations - Physicians - Medical Review Committees**

3 FOR the purpose of adding a freestanding ambulatory care facility to the list of
4 alternative health care systems that have medical review committees; *providing*
5 *for what constitutes a contribution to the function of a medical review committee*
6 *for the purpose of determining certain civil immunity*; and generally relating to
7 medical review committees.

8 *BY renumbering*
9 *Article - Health Occupations*
10 *Section 14-501, 14-502, 14-501.1, 14-504 through 14-506, and 14-508,*
11 *respectively*
12 *to be Section 1-401, 1-402, and 14-501 through 14-505, respectively*
13 *Annotated Code of Maryland*
14 *(2000 Replacement Volume and 2001 Supplement)*

15 *BY repealing and reenacting, with amendments,*

1 Article - Health Occupations
 2 Section 1-401 and 1-402 to be under the new subtitle "Subtitle 4. Medical
 3 Review Committees"
 4 Annotated Code of Maryland
 5 (2000 Replacement Volume and 2001 Supplement)
 6 (As enacted by Section 1 of this Act)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 8 MARYLAND, That Section(s) 14-501, 14-502, 14-501.1, 14-504 through 14-506,
 9 and 14-508, respectively, of Article - Health Occupations of the Annotated Code of
 10 Maryland be renumbered to be Section(s) 1-401, 1-402, and 14-501 through 14-505,
 11 respectively.

12 ~~BY repealing and reenacting, with amendments,~~
 13 ~~Article - Health Occupations~~
 14 ~~Section 14-501~~
 15 ~~Annotated Code of Maryland~~
 16 ~~(2000 Replacement Volume and 2001 Supplement)~~

17 ~~SECTION 1. 2. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~
 18 ~~MARYLAND AND BE IT FURTHER ENACTED,~~ That the Laws of Maryland read as
 19 follows:

20 **Article - Health Occupations**

21 SUBTITLE 4. MEDICAL REVIEW COMMITTEES.

22 1-401.

23 ~~14-501.~~

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) (i) "Alternative health care system" means a system of health care
 26 delivery other than a hospital or related institution.

27 (ii) "Alternative health care system" includes:

28 1. A health maintenance organization;

29 2. A preferred provider organization;

30 3. An independent practice association;

31 4. A community health center that is a nonprofit,
 32 freestanding ambulatory health care provider governed by a voluntary board of
 33 directors and that provides primary health care services to the medically indigent;
 34 [or]

1 5. A FREESTANDING AMBULATORY CARE FACILITY AS THAT
2 TERM IS DEFINED IN § 19-3B-01 OF THE HEALTH - GENERAL ARTICLE; OR

3 6. Any other health care delivery system that utilizes a
4 medical review committee.

5 (3) "Medical review committee" means a committee or board that:

6 (i) Is within one of the categories described in subsection (b) of this
7 section; and

8 (ii) Performs functions that include at least one of the functions
9 listed in subsection (c) of this section.

10 (4) (i) "Provider of health care" means any person who is licensed by
11 law to provide health care to individuals.

12 (ii) "Provider of health care" does not include any nursing
13 institution that is conducted by and for those who rely on treatment by spiritual
14 means through prayer alone in accordance with the tenets and practices of a
15 recognized church or religious denomination.

16 (5) "The Maryland Institute for Emergency Medical Services Systems"
17 means the State agency described in § 13-503 of the Education Article.

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

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

21 (2) A committee of the Faculty or any of its component societies or a
22 committee of any other professional society or association composed of providers of
23 health care;

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

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

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

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

1 (7) Any person who contracts with a provider of health care to perform
2 any of those functions listed in subsection (c) of this section that are limited to the
3 review of services provided by the provider of health care;

4 (8) An organization, established by the Maryland Hospital Association,
5 Inc. and the Faculty, that contracts with a hospital, related institution, or alternative
6 delivery system to:

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

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

11 (9) A committee appointed by or established in an accredited health
12 occupations school;

13 (10) An organization described under § ~~14-501.1~~ 14-501 of this ~~subtitle~~
14 ARTICLE that contracts with a hospital, related institution, or health maintenance
15 organization to:

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

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

22 (11) An accrediting organization as defined in § ~~14-501.1~~ 14-501 of this
23 ~~subtitle~~ ARTICLE; or

24 (12) A Mortality Review Committee established under § 5-801 of the
25 Health - General Article.

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

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

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

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

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

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

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

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

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

13 (iii) A health maintenance organization to ensure compliance with
14 the National Committee for Quality Assurance (NCQA) credentialing requirements;
15 or

16 (iv) An accrediting organization to ensure compliance with
17 accreditation requirements or the procedures and policies of the accrediting
18 organization.

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

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

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

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

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

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

35 (f) (L) A person shall have the immunity from liability described under §
36 5-637 of the Courts and Judicial Proceedings Article for any action as a member of
37 the medical review committee or for giving information to, participating in, or
38 contributing to the function of the medical review committee.

1 (2) A CONTRIBUTION TO THE FUNCTION OF A MEDICAL REVIEW
2 COMMITTEE INCLUDES ANY STATEMENT BY ANY PERSON, REGARDLESS OF
3 WHETHER IT IS A DIRECT COMMUNICATION WITH THE MEDICAL REVIEW
4 COMMITTEE, THAT IS MADE WITHIN THE CONTEXT OF THE PERSON'S EMPLOYMENT
5 OR IS MADE TO A PERSON WITH A PROFESSIONAL INTEREST IN THE FUNCTIONS OF
6 A MEDICAL REVIEW COMMITTEE AND IS INTENDED TO LEAD TO REDRESS OF A
7 MATTER WITHIN THE SCOPE OF A MEDICAL REVIEW COMMITTEE'S FUNCTIONS.

8 (g) Notwithstanding this section, §§ 14-410 and 14-412 of this ~~title~~ ARTICLE
9 apply to:

10 (1) The Board OF PHYSICIAN QUALITY ASSURANCE; and

11 (2) Any other entity, to the extent that it is acting in an investigatory
12 capacity for the Board OF PHYSICIAN QUALITY ASSURANCE.

13 I-402.

14 (a) In accordance with the Health Care Quality Improvement Act of 1986, the
15 State elects not to be governed by the provisions of the Act that provide limitations on
16 damages for suits brought under State law against medical review bodies and to
17 physicians participating in professional peer review activities.

18 (b) For suits brought under State law, the State shall be governed by this
19 [title] SUBTITLE.

20 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
21 effect October 1, 2002.