

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 500

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 21, after “petitions;” insert “requiring the Board to provide a certain notice of a vacancy of a certain physician assistant member of the Board;”; in line 26, after “Board;” insert “requiring the Comptroller to distribute certain fees to the Board of Physicians Fund (Fund) under certain circumstances;”; in line 27, strike “Board of Physicians”; in the same line, strike “(Fund)”; in line 34, strike “an” and substitute “a nonprofit”; in the same line, after “entity” insert “or entities”; in line 35, after “investigation” insert “, physician rehabilitation,”; and in the same line, after “services;” insert “providing for certain time limits relating to peer review; requiring the physician rehabilitation committee to report certain noncompliance to the Board;”.

On page 2, in line 3, strike “Faculty” and substitute “entity or entities with whom the Board contracts”; strike beginning with “authorizing” in line 5 down through “manner;” in line 6 and substitute “requiring that factual findings be supported by a preponderance of the evidence under certain circumstances; requiring that factual findings be supported by clear and convincing evidence under certain circumstances;”; strike beginning with “requiring” in line 12 down through “date;” in line 13 and substitute “requiring the Governor to appoint a new State Board of Physicians with the advice of the Secretary of Health and Mental Hygiene and the advice and consent of the Senate;”; in line 17, strike “exceptions hearing” and substitute “case resolution conference”; strike beginning with “requiring” in line 20 down through “year;” in line 25; in line 27, after “Act;” insert “requiring the Board and the Department of Health and Mental Hygiene to report to certain committees through both a written report and an oral presentation on or before a certain date;”; in line 37, after “14-411.1,” insert “14-504(g),”; in the same line, strike “and”; and in the same line, after “14-702” insert “, and 15-310(e)”.

On page 3, strike in their entirety lines 7 through 12, inclusive.

AMENDMENT NO. 2

(Over)

On page 4, in line 26, strike “FACULTY” and substitute “ENTITY OR ENTITIES WITH WHOM THE BOARD CONTRACTS UNDER § 14-401(E) OF THIS TITLE”.

On page 5, in line 21, after “SECRETARY” insert “AND THE ADVICE AND CONSENT OF THE SENATE”; in line 25, strike “BY THE GOVERNOR”; in the same line, strike “SUBSECTION (D)” and substitute “SUBSECTIONS (D) AND (E)”; and strike beginning with “PRACTICING” in line 30 down through “SECRETARY” in line 32 and substitute “CERTIFIED PHYSICIAN ASSISTANT APPOINTED AT THE GOVERNOR’S DISCRETION AS PROVIDED IN SUBSECTIONS (F) AND (G) OF THIS SECTION”.

On page 6, in line 1, after “PHYSICIAN” insert “WITH A FULL-TIME FACULTY APPOINTMENT”; and strike beginning with “appointed” in line 8 down through “Senate” in line 9.

On page 7, in line 11, strike “BY THE GOVERNOR WITH THE ADVICE OF THE SECRETARY UNDER” and substitute “IN ACCORDANCE WITH”; and in line 31, strike “BY THE GOVERNOR UNDER” and substitute “IN ACCORDANCE WITH”.

On page 8, in line 7, after “(f)” insert “(1) FOR THE VACANCY OF A CERTIFIED PHYSICIAN ASSISTANT APPOINTED IN ACCORDANCE WITH SUBSECTION (A)(2)(IV) OF THIS SECTION, THE BOARD SHALL:

(I) NOTIFY ALL PRACTICING CERTIFIED PHYSICIAN ASSISTANTS AND PROFESSIONAL ORGANIZATIONS REPRESENTING AT LEAST 25 CERTIFIED PHYSICIAN ASSISTANTS IN THE STATE OF THE VACANCY;

(II) PROVIDE INFORMATION REGARDING THE SELECTION PROCESS AS PROVIDED UNDER SUBSECTION (A)(2)(IV) OF THIS SECTION;

(III) SOLICIT NOMINATIONS FOR THE VACANCY; AND

(IV) FORWARD TO THE GOVERNOR:

1. VALID NOMINATIONS SUBMITTED BY PROFESSIONAL ORGANIZATIONS REPRESENTING AT LEAST 25 CERTIFIED PHYSICIAN ASSISTANTS IN THE STATE; AND

2. VALID PETITIONS SUBMITTED BY PRACTICING CERTIFIED PHYSICIAN ASSISTANTS SUPPORTING THE APPOINTMENT OF THE CERTIFIED PHYSICIAN ASSISTANT TO THE BOARD THAT ARE SIGNED BY AT LEAST 25 PRACTICING CERTIFIED PHYSICIAN ASSISTANTS IN THE STATE.

(2) THE BOARD SHALL MEET THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION WITHIN:

(I) 4 MONTHS PRIOR TO AN UPCOMING VACANCY ON THE BOARD; OR

(II) 2 MONTHS AFTER A VACANCY EXISTS ON THE BOARD.

(G) FOR EACH VACANCY OF A CERTIFIED PHYSICIAN ASSISTANT APPOINTED IN ACCORDANCE WITH SUBSECTION (A)(2)(IV) OF THIS SECTION, THE GOVERNOR MAY:

(1) REAPPOINT A MEMBER WHO HAS NOT SERVED FOR MORE THAN TWO CONSECUTIVE FULL TERMS; OR

(2) APPOINT A CERTIFIED PHYSICIAN ASSISTANT IN ACCORDANCE WITH SUBSECTION (A)(2)(IV) OF THIS SECTION FROM LISTS SUBMITTED BY THE BOARD AS PROVIDED IN SUBSECTION (F)(1)(IV) OF THIS SECTION.

(H)";

and in lines 9, 16, and 21, strike "(g)", "(h)", and "(i)", respectively, and substitute "(I)", "(J)", and "(K)", respectively.

AMENDMENT NO. 3

On page 9, in lines 11 and 12, in each instance, strike the bracket; in line 12, strike "THE"; in line 14, strike "The" and substitute "(I) IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET AT LEAST \$750,000 FOR THE OPERATION OF THE HEALTH

(Over)

MANPOWER SHORTAGE INCENTIVE PROGRAM UNDER § 18-803 OF THE EDUCATION ARTICLE AND THE LOAN ASSISTANCE REPAYMENT PROGRAM FOR PRIMARY CARE SERVICES UNDER § 18-1502(C) OF THE EDUCATION ARTICLE, AS ADMINISTERED BY THE MARYLAND HIGHER EDUCATION COMMISSION, THE”; in lines 15, 17, 19, and 25, strike “(i)”, “1.”, “2.”, and “(ii)”, respectively, and substitute “1.”, “A.”, “B.”, and “2.”, respectively; and after line 26, insert:

“(II) IF THE GOVERNOR INCLUDES IN THE STATE BUDGET AT LEAST \$750,000 FOR THE OPERATION OF THE HEALTH MANPOWER SHORTAGE INCENTIVE PROGRAM UNDER § 18-803 OF THE EDUCATION ARTICLE AND THE LOAN ASSISTANCE REPAYMENT PROGRAM FOR PRIMARY CARE SERVICES UNDER § 18-1502(C) OF THE EDUCATION ARTICLE, AS ADMINISTERED BY THE MARYLAND HIGHER EDUCATION COMMISSION, THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE BOARD OF PHYSICIANS FUND.”.

AMENDMENT NO. 4

On page 10, in line 20, strike “its full authorized membership” and substitute “A MAJORITY OF ITS QUORUM”; and strike beginning with “ITS” in line 25 down through “MEMBERSHIP” in line 26, and substitute “A MAJORITY OF ITS QUORUM”.

On page 12, strike beginning with “The” in line 14 down through “committee,” in line 15 and substitute “THE ENTITY OR ENTITIES WITH WHICH THE BOARD CONTRACTS UNDER SUBSECTION (E) OF THIS SECTION, ALL COMMITTEES OF THE ENTITY OR ENTITIES, EXCEPT FOR THE PHYSICIAN REHABILITATION COMMITTEE.”; in line 35, after “(E)” insert “(1) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION.”; in the same line, strike “AN” and substitute “A NONPROFIT”; in line 36, after “INVESTIGATION” insert “, PHYSICIAN REHABILITATION.”; and after line 37, insert:

“(2) THE NONPROFIT ENTITY OR ENTITIES SHALL EMPLOY REVIEWERS THAT:

(I) ARE BOARD CERTIFIED;

(II) HAVE SPECIAL QUALIFICATIONS TO JUDGE THE MATTER

AT HAND;

(III) HAVE RECEIVED A SPECIFIED AMOUNT OF MEDICAL EXPERIENCE AND TRAINING;

(IV) HAVE NO FORMAL ACTIONS AGAINST THEIR OWN LICENSES;

(V) RECEIVE TRAINING IN PEER REVIEW; AND

(VI) HAVE A STANDARD FORMAT FOR PEER REVIEW REPORTS.

(3) THE NONPROFIT ENTITY OR ENTITIES SHALL MAKE A REASONABLE EFFORT TO EMPLOY PHYSICIANS THAT ARE LICENSED IN THE STATE.”.

On page 13, in line 1, after “(1)” insert “(I) THE NONPROFIT ENTITY OR ENTITIES WITH WHICH THE BOARD CONTRACTS UNDER SUBSECTION (E) OF THIS SECTION SHALL HAVE 90 DAYS FOR COMPLETION OF PEER REVIEW.”

(II) THE NONPROFIT ENTITY OR ENTITIES MAY APPLY TO THE BOARD FOR AN EXTENSION OF UP TO 30 DAYS TO THE TIME LIMIT IMPOSED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(III) IF AN EXTENSION IS NOT GRANTED, AND 90 DAYS HAVE ELAPSED, THE BOARD MAY CONTRACT WITH ANY OTHER ENTITY FOR THE SERVICES OF PEER REVIEW.

(IV) IF AN EXTENSION HAS BEEN GRANTED, AND 120 DAYS HAVE ELAPSED, THE BOARD MAY CONTRACT WITH ANY OTHER ENTITY FOR THE SERVICES OF PEER REVIEW.

(2) IF A PHYSICIAN HAS BEEN NONCOMPLIANT WITH A PHYSICIAN REHABILITATION COMMITTEE FOR 60 DAYS, THE PHYSICIAN REHABILITATION COMMITTEE SHALL REPORT THIS NONCOMPLIANCE TO THE BOARD.

(G)”;

and in lines 17, 19, and 22, strike “(g)”, “(h)”, and “(i)”, respectively, and substitute “(H)”, “(I)”, and “(J)”, respectively.

AMENDMENT NO. 5

On page 14, in line 14, strike “(1)”; in the same line, strike the bracket; in line 17, strike “by the Faculty to the Board”; in line 19, strike “of the Faculty, as approved by the Secretary”; in line 21, strike “Faculty]” and substitute “ENTITY OR ENTITIES WITH WHICH THE BOARD CONTRACTS.”

(E) (1)”;

in the same line, strike “FACULTY” and substitute “ENTITY OR ENTITIES WITH WHICH THE BOARD CONTRACTS”; strike in their entirety lines 26 and 27; and in line 34, strike “its full authorized membership” and substitute “THE QUORUM”.

AMENDMENT NO. 6

On page 18, strike beginning with “OR” in line 14 down through “MEMBERS” in line 18; in lines 19 and 28, in each instance, strike “OR THE SUBCOMMITTEE OF THE BOARD”; in lines 19, 22, 23, 27, 30, and 32, in each instance, strike the brackets; in lines 19, 22, 23, 27, 30, and 32, strike “(C)”, “(D)”, “(E)”, “(F)”, “(G)”, and “(H)”, respectively; in line 19, before “The” insert “(1)”; after line 21, insert:

“(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, FACTUAL FINDINGS SHALL BE SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE.”

(3) FACTUAL FINDINGS SHALL BE SUPPORTED BY CLEAR AND CONVINCING EVIDENCE IF THE CHARGE OF THE BOARD IS BASED ON § 14-404(A)(22), § 14-5A-17(A)(18), OR § 14-5B-14(A)(18) OF THIS TITLE.”;

strike beginning with “OR” in line 24 down through “BOARD” in line 25; strike beginning with “full” in line 35 down through “membership” in line 36 and substitute “QUORUM”.

AMENDMENT NO. 7

On page 19, in line 2, strike “ITS FULL AUTHORIZED MEMBERSHIP” and substitute “A MAJORITY OF ITS QUORUM”; strike beginning with “as” in line 17 down through “Bank” in line 18; in line 19, after “description” insert “IN SUMMARY FORM”; in line 21, strike “as reported to the National Practitioner Data Bank”; in line 22, after “MALPRACTICE” insert “FINAL”; in line 24, after “PERIOD” insert “FOR WHICH ALL APPEALS HAVE BEEN EXHAUSTED AS REPORTED TO THE BOARD”; in line 26, after “LICENSEE” insert “IF THERE ARE THREE OR MORE”; in line 27, strike “10” and substitute “5”; in line 27, after “PERIOD” insert “AS REPORTED TO THE BOARD”; strike in their entirety lines 28 through 31, inclusive; and in lines 32 and 35, strike “(6)” and “(7)”, respectively, and substitute “(5)” and “(6)”, respectively.

AMENDMENT NO. 8

On page 22, after line 30, insert:

“14-504.

(g) Subject to the hearing provisions of § 14-405 of this title, the Board, on the affirmative vote of a majority of its [full authorized membership] QUORUM, may reprimand or place a physician who performs acupuncture on probation or suspend or revoke the registration of a physician for:

(1) Any conduct prohibited under the provisions of this section or prohibited under any regulation adopted pursuant to the provisions of this section;

(2) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control’s guidelines on universal precautions; or

(3) Failing to display the notice required under subsection (h) of this section.”;

and in line 35, strike “2006” and substitute “2007”.

AMENDMENT NO. 9

(Over)

On page 23, after line 4, insert:

“15-310.

(e) (1) (i) The Board shall assess each applicant for a certificate or the renewal of a certificate to practice as a physician assistant, a fee set by the Board.

(ii) The fee shall be sufficient to fund the activities of the [faculty] ENTITY OR ENTITIES WITH WHOM THE BOARD CONTRACTS UNDER § 14-401(E) OF THIS ARTICLE in conducting a physician assistant rehabilitation program.

(iii) The fee shall be set by the Secretary each year after the submission by the [faculty] ENTITY OR ENTITIES WITH WHOM THE BOARD CONTRACTS UNDER § 14-401(E) OF THIS ARTICLE to the Board of the annual budget for the Physician Assistant Rehabilitation Program.

(2) As provided under § 2-1220 of the State Government Article, the Legislative Auditor, every 2 years, shall audit the accounts and transactions of the [faculty] ENTITY OR ENTITIES WITH WHOM THE BOARD CONTRACTS UNDER § 14-401(E) OF THIS ARTICLE in conducting the Physician Assistant Rehabilitation Program.”;

strike in their entirety lines 13 through 31, inclusive; in line 32, strike “3.” and substitute “2.”; and in line 34, strike “July 30” and substitute “July 31”.

On page 24, in lines 1, 5, and 24, strike “4.”, “5.”, and “7.”, respectively, and substitute “3.”, “4.”, and “5.”, respectively; in line 2, after “Hygiene” insert “and the advice and consent of the Senate”; and strike in their entirety lines 11 through 23, inclusive.

On page 25, in lines 1, 14, 20, 26, 35, and 39, strike “8.”, “9.”, “10.”, “11.”, “13.”, and “14.”, respectively, and substitute “6.”, “7.”, “8.”, “9.”, “10.”, and “11.”, respectively; in line 15, strike “an Exceptions Hearing” and substitute “a Case Resolution Conference”; in line 16, strike “10.32.02.03F” and substitute “10.32.02.03C(7)”; strike in their entirety lines 30 through 34, inclusive; strike beginning with “That,” in line 39 down through “Act,” in line 40, and substitute “That the State Board of Physicians and the Department of Health and Mental Hygiene shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and

Government Operations Committee through both a written report, and an oral presentation, on or before December 1 of 2003, 2004, and 2005, in accordance with § 2-1246 of the State Government Article, on the implementation of the changes to Titles 14 and 15 of the Health Occupations Article contained within this Act.

SECTION 12. AND BE IT FURTHER ENACTED, That”.