

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 774

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 10, after “physicians” insert “, the licensure, certification, registration, and regulation of allied health professionals under the jurisdiction of the Secretary.”; in line 14, after “State;” insert “authorizing the Secretary to employ certain staff to administer the provisions of this Act;”; in line 22, after “law;” insert “clarifying certain provisions of law regarding the transfer of authority from the Board to the Secretary;”; in line 29, strike “and”; and in the same line, after the second “technologists” insert “, and physician assistants”.

On page 2, in line 11, after “14-702” insert “, 15-202(a), 15-311, and 15-314”; in line 16, after “14-101” insert a comma; strike beginning with “and” in line 16 down through “14-201” in line 17 and substitute “14-201”; in line 17, after “through” insert “14-205, inclusive, 14-206(a),”; in the same line, strike “, inclusive,” and substitute “, and 14-208”; in line 18, after “14-301” insert “, 14-302, and 14-307”; in line 19, strike “through 14-415, inclusive,” and substitute “14-402(e), 14-405, 14-405.1, 14-406, 14-408(a) and (b), 14-409, 14-411(a) through (e) and (h) through (q), and 14-411.1”; in line 25, strike “14-102” and substitute “14-206(b) through (e), inclusive, 14-306, 14-402(a) through (d), inclusive, 14-403, 14-404, 14-407, 14-408(c) and (d), 14-410, 14-411(f) and (g), 14-412 through 14-415, inclusive”; in line 33, strike “14-107” and substitute “14-108(a) through (d), inclusive, 14-109, 14-110(a) through (d), inclusive, 14-111, 14-112, 14-113, 14-114(a) and (b), 14-115, 14-116(a) and (b), and 14-117 through 14-120, inclusive”.

On page 3, in line 3, strike “through 14-106” and substitute “and 14-103 through 14-107”; after line 5, insert:

“BY repealing and reenacting, with amendments,

Article - Health Occupations

Section 14-109, 14-112, 14-117, 14-202(b)(9), 14-204(g), 14-317, 14-319, 14-405(a) and (b), 14-414, and 14-502(c)

(Over)

Annotated Code of Maryland
(2000 Replacement Volume and 2002 Supplement)
(As enacted by Section 3 of this Act)”;

after line 11, insert:

“BY repealing and reenacting, with amendments,
Article - Courts and Judicial Proceedings
Section 5-715
Annotated Code of Maryland
(2002 Replacement Volume)”;

strike beginning with “and” in line 24 down through “Provisions”“ in line 25; in line 25, after “through” insert “14-205, inclusive, 14-206(a),”; in line 26, strike “inclusive,” and substitute “, and 14-208”; in line 27, after “14-301” insert “, 14-302, and 14-307”; in line 28, strike “through 14-415, inclusive,” and substitute “, 14-402(e), 14-405, 14-405.1, 14-406, 14-408(a) and (b), 14-409, 14-411(a) through (e) and (h) through (q), and 14-411.1”; in line 30, strike “14-102” and substitute “14-206(b) through (e), inclusive, 14-306, 14-402(a) through (d), inclusive, 14-403, 14-404, 14-407, 14-408(c) and (d), 14-410, 14-411(f) and (g), 14-412 through 14-415, inclusive”; and in line 38, strike “14-107” and substitute “14-108(a) through (d), inclusive, 14-109, 14-110(a) through (d), inclusive, 14-111, 14-112, 14-113, 14-114(a) and (b), 14-115, 14-116(a) and (b), 14-117 through 14-120, inclusive”.

AMENDMENT NO. 2

On page 5, in line 19, strike “14-102.” and substitute “14-103.”; in line 21, after “PHYSICIANS” insert “, THE LICENSURE, CERTIFICATION, REGISTRATION, AND REGULATION OF ALLIED HEALTH PROFESSIONALS UNDER THE JURISDICTION OF THE SECRETARY,”; in lines 23 and 27, strike “14-103.” and “14-104.”, respectively, and substitute “14-104.” and “14-105.”, respectively; and in line 29, after “TITLE” insert “AND TITLE 15 OF THIS ARTICLE”.

AMENDMENT NO. 3

On page 6, in line 14, after “OF” insert “INVESTIGATIVE, LEGAL AND ACCOUNTING SERVICES, EXPERT WITNESSES, CONSULTANTS, MEDIATORS, PHYSICIAN REHABILITATION, PEER REVIEW, AND OTHER”; in line 15, after “TITLE” insert “AND TITLE 15 OF THIS ARTICLE”; in line 16, after “TITLE” insert “OR TITLE 15 OF THIS ARTICLE OR AN ALLEGED VIOLATION OF A REGULATION ADOPTED IN ACCORDANCE WITH THIS TITLE OR TITLE 15 OF THIS ARTICLE”; in line 23, after “LICENSURE” insert

“INCLUDING STANDARDS TO DEMONSTRATE ORAL COMPETENCY IN THE ENGLISH LANGUAGE”; in line 33, after “LIMITED” insert “LICENSE FOR POSTGRADUATE TEACHING”; in the same line, after “OR” insert “A”; and in the same line, after “LICENSE” insert “FOR THE PRACTICE OF OSTEOPATHY”.

AMENDMENT NO. 4

On page 7, strike in their entirety lines 1 and 2; in line 3, strike “(20)” and substitute “(19) FOLLOWING THE FILING OF CHARGES AND THE APPROPRIATE HEARING PROCESS:”

(I)”;

in line 4, after “LICENSE” insert “; AND”

(II) IN ADDITION TO A SANCTION ISSUED UNDER ITEM (I) OF THIS PARAGRAPH, IMPOSE ANY ADDITIONAL RESTRICTIONS OR CONDITIONS ON A LICENSEE”;

in line 5, strike “(21)” and substitute “(20)”; in the same line, after “LICENSEE” insert “PURSUANT TO REGULATION”; in lines 6, 7, and 24, strike “(22)”, “14-105.” and “14-106.”, respectively, and substitute “(21)”, “14-106.”, and “14-107.”, respectively; in line 27, after “LICENSES” insert “, CERTIFICATES, REGISTRATIONS, AND OTHER SERVICES”; and strike beginning with “EXCEPT” in line 28 down through “ACTIVITIES,” in line 30.

AMENDMENT NO. 5

On page 9, after line 3, insert:

“14-109.”

(a) To the extent permitted by the rules, regulations, and orders of the [Board,] SECRETARY, an individual to whom duties are delegated by a licensed physician may perform those duties without a license as provided in this section.

(b) The individuals to whom duties may be delegated under this section include any individual authorized to practice any other health occupation regulated under this article or § 13-516

(Over)

of the Education Article.

(c) The [Board] SECRETARY shall adopt rules and regulations to delineate the scope of this section. Before [it] THE SECRETARY adopts any rule or regulation under this section, the [Board] SECRETARY shall invite and consider proposals from any individual or health group that could be affected by the rule or regulation.

(d) (1) If a duty that is to be delegated under this section is a part of the practice of a health occupation that is regulated under this article by another board, any rule or regulation concerning that duty shall be adopted jointly by the [Board of Physician Quality Assurance] SECRETARY and the board that regulates the other health occupation.

(2) If the [two boards] SECRETARY AND THE OTHER BOARD cannot agree on a proposed rule or regulation, the [proposal shall be submitted to the] DECISION OF THE Secretary [for a] SHALL BE final [decision].

(e) An individual may perform X-ray duties without a license only if the duties:

(1) Do not include:

(i) Computerized or noncomputerized tomography;

(ii) Fluoroscopy;

(iii) Invasive radiology;

(iv) Mammography;

(v) Nuclear medicine;

(vi) Radiation therapy; or

(vii) Xerography.

(2) Are limited to X-ray procedures of the:

- (i) Chest, anterior-posterior and lateral;
- (ii) Spine, anterior-posterior and lateral; or
- (iii) Extremities, anterior-posterior and lateral, not including the head.

(3) Are performed:

(i) By an individual who is not employed primarily to perform X-ray duties;

(ii) In the medical office of the physician who delegates the duties; and

(iii) By an individual who, before October 1, 2002, has:

1. Taken a course consisting of at least 30 hours of training in performing X-ray procedures approved by the Maryland Radiological Society in consultation with the Maryland Society of Radiologic Technologists; and

2. Successfully passed an examination based on that course that has been approved by the Maryland Radiological Society in consultation with the Maryland Society of Radiologic Technologists.

14-112.

(a) Subject to the hearing provisions of [§ 14-405 of this subtitle] THE ADMINISTRATIVE PROCEDURE ACT, the [Board,] SECRETARY [on the affirmative vote of a majority of its full authorized membership,] may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(Over)

- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of immoral or unprofessional conduct in the practice of medicine;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Solicits or advertises in violation of § [14-503] 14-203 of this title;
- (6) Abandons a patient;
- (7) Habitually is intoxicated;
- (8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (9) Provides professional services:
 - (i) While under the influence of alcohol; or
 - (ii) While using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (10) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (11) Willfully makes or files a false report or record in the practice of medicine;
- (12) Willfully fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (13) On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health - General Article, fails to provide details of a patient's medical record to the patient, another physician, or hospital;

(14) Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician;

(15) Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient;

(16) Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient, unless the licensed physician discloses on the bill to the patient or third-party payor:

(i) The name of the laboratory;

(ii) The amount paid to the laboratory for the test or test series; and

(iii) The amount of procurement or processing charge of the licensed physician, if any, for each specimen taken;

(17) Makes a willful misrepresentation in treatment;

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

(19) Grossly overutilizes health care services;

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

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

(Over)

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

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

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

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

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

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

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

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

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

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

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

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

- (ii) Employs a pharmacist for the purpose of operating a pharmacy; or
- (iii) Contracts with a pharmacist for the purpose of operating a pharmacy;
- (31) 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;
- (32) Fails to display the notice required under § [14-415] 14-120 of this title;
- (33) Fails to cooperate with a lawful investigation conducted by the [Board] SECRETARY;
- (34) Is convicted of insurance fraud as defined in § 27-801 of the Insurance Article;
- (35) Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the licensee's medical education;
- (36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine;
- (37) By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the [Board] SECRETARY or those otherwise delegated to the Office of Administrative Hearings;
- (38) By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the [Board] SECRETARY in furtherance of any investigation of the [Board] SECRETARY;
- (39) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the [Board] SECRETARY or those

otherwise delegated to the Office of Administrative Hearings; or

(40) Fails to keep adequate medical records as determined by appropriate peer review.

(b) (1) On the filing of certified docket entries with the [Board] SECRETARY by the Office of the Attorney General, the [Board] SECRETARY shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, the [Board] SECRETARY shall order the revocation of a license on the certification by the Office of the Attorney General.

14-117.

(a) If [a person is a member of the Board or a legally authorized agent of the Board and] THE SECRETARY OR THE SECRETARY'S DESIGNEE is investigating, prosecuting, participating in a hearing, or otherwise acting on an allegation of a ground for [Board] action BY THE SECRETARY made to the [Board] SECRETARY or the Faculty, the [person] SECRETARY OR THE SECRETARY'S DESIGNEE shall have the immunity from liability described under § 5-715(b) of the Courts and Judicial Proceedings Article.

(b) A person who makes an allegation of a ground for [Board] action BY THE SECRETARY to the [Board] SECRETARY or the Faculty shall have the immunity from liability described under § 5-715(c) of the Courts and Judicial Proceedings Article.

14-202.

(b) This section applies to:

(9) [A member of the Board] THE SECRETARY OR THE SECRETARY'S DESIGNEE;

14-204.

(g) Subject to the hearing provisions of [§ 14-405 of this title] THE ADMINISTRATIVE PROCEDURE ACT, the [Board, on the affirmative vote of a majority of its full authorized membership,] SECRETARY 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.

14-317.

(a) Subject to the hearing provisions of [§ 14-405 of this title] THE ADMINISTRATIVE PROCEDURE ACT, the [Board] SECRETARY may deny a license or temporary license to any applicant, reprimand any licensee or holder of a temporary license, place any licensee or holder of a temporary license on probation, or suspend or revoke a license or temporary license if the applicant, licensee, or holder:

(1) Fraudulently or deceptively obtains or attempts to obtain a license or temporary license for the applicant, licensee, or holder or for another;

(2) Fraudulently or deceptively uses a license or temporary license;

(3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care;

- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (8) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of respiratory care;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing respiratory care;

(15) Knowingly practices respiratory care with an unauthorized individual or aids an unauthorized individual in the practice of respiratory care;

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

(17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State;

(19) Knowingly submits false statements to collect fees for which services are not provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) The licensed individual:

1. Surrendered the license issued by the state or country; or

2. Allowed the license issued by the state or country to expire or lapse;

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

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

(23) Practices or attempts to practice beyond the authorized scope of practice;

(24) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

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

(26) Practices or attempts to practice a respiratory care procedure or uses or attempts to use respiratory care equipment if the applicant, licensee, or holder has not received education and training in the performance of the procedure or the use of the equipment.

(b) [Except as otherwise provided in the Administrative Procedure Act, before] BEFORE the [Board] SECRETARY takes any action under [14-5A-17(a)] SUBSECTION (A) of this section, [it] THE SECRETARY shall give the individual against whom the action is contemplated an opportunity for a hearing before the [Board] in accordance with the hearing requirements of [§ 14-405 of this title] THE ADMINISTRATIVE PROCEDURE ACT.

(c) (1) On the filing of certified docket entries with the [Board] SECRETARY by the Office of the Attorney General, the [Board] SECRETARY shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, the [Board] SECRETARY shall order the revocation of a license on the certification by the Office of the Attorney General.

14-319.

On the application of an individual whose license has been revoked, the [Board, on the affirmative vote of a majority of its full authorized membership,] SECRETARY may reinstate a

revoked license.

14-405.

(a) There is a Radiation Oncology/Therapy Technology, Medical Radiation Technology, and Nuclear Medicine Technology Advisory Committee within the [Board] DEPARTMENT.

(b) (1) The Committee consists of eight members appointed by the [Board] SECRETARY.

(2) Of the eight members:

(i) One shall be a licensed physician who specializes in radiology;

(ii) One shall be a licensed physician who specializes in nuclear medicine;

(iii) One shall be a licensed physician who specializes in radiation oncology;

(iv) One shall be a radiation oncology/therapy technologist;

(v) One shall be a medical radiation technologist;

(vi) One shall be a nuclear medicine technologist;

(vii) One shall be a consumer member; and

(viii) One shall be [a member of the Board] THE SECRETARY OR THE SECRETARY'S DESIGNEE.

14-414.

(a) Subject to the hearing provisions of [§ 14-405 of this title] THE ADMINISTRATIVE PROCEDURE ACT, the [Board] SECRETARY may deny a certificate to any applicant for a

(Over)

certificate, reprimand any certified radiation oncology/therapy technologist, certified medical radiation technologist, or certified nuclear medicine technologist, place any certified radiation oncology/therapy technologist, certified medical radiation technologist, or certified nuclear medicine technologist on probation, or suspend or revoke a certificate if the applicant, certified radiation oncology/therapy technologist, certified medical radiation technologist, or certified nuclear medicine technologist:

(1) Fraudulently or deceptively obtains or attempts to obtain a certificate for the applicant, certified individual, or for another;

(2) Fraudulently or deceptively uses a certificate;

(3) Is guilty of unprofessional or immoral conduct in the practice of radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology;

(4) Is professionally, physically, or mentally incompetent;

(5) Abandons a patient;

(6) Is habitually intoxicated;

(7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in Article 27 of the Code;

(8) Provides professional services while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance as defined in Article 27 of the Code or any other drug that is in excess of therapeutic amounts or without valid medical indication;

(9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(10) Willfully makes or files a false report or record in the practice of respiratory care;

(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;

(12) Breaches patient confidentiality;

(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;

(14) Knowingly makes a misrepresentation while practicing radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology;

(15) Knowingly practices radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology with an unauthorized individual or aids an unauthorized individual in the practice of radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology;

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

(17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the [Board's] SECRETARY'S disciplinary statutes;

(18) Fails to meet appropriate standards for the delivery of quality radiation oncology/therapy technology care, medical radiation technology care, or nuclear medicine technology care performed in any outpatient surgical facility, office, hospital or related institution, or any other location in this State;

(Over)

(19) Knowingly submits false statements to collect fees for which services are not provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the [Board's] SECRETARY'S disciplinary statutes; and

(ii) The certified individual:

1. Surrendered the certificate or license issued by the state or country; or

2. Allowed the certificate or license issued by the state or country to expire or lapse;

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

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

(23) Practices or attempts to practice beyond the authorized scope of practice;

(24) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(25) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the radiation oncology/therapy technologist, certified medical radiation technologist, or certified nuclear medicine technologist is certified and qualified to render because the individual is HIV positive; or

(26) Practices or attempts to practice a radiation oncology/therapy technology, medical radiation technology, or nuclear medicine technology procedure or uses radiation

oncology/therapy technology, medical radiation technology, or nuclear medicine technology equipment if the applicant or certified individual has not received education, internship, training, or experience in the performance of the procedure or the use of the equipment.

(b) [Except as otherwise provided in the Administrative Procedure Act, before] BEFORE the [Board] SECRETARY takes any action under subsection (a) of this section, [it] THE SECRETARY shall give the individual against whom the action is contemplated an opportunity for a hearing before the [Board] SECRETARY in accordance with the hearing requirements of [§ 14-405 of this title] THE ADMINISTRATIVE PROCEDURE ACT.

(c) (1) On the filing of certified docket entries with the [Board] SECRETARY by the Office of the Attorney General, the [Board] SECRETARY shall order the suspension of a certified individual if the individual is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, the [Board] SECRETARY shall order the revocation of a certificate on the certification by the Office of the Attorney General.

14-502.

(c) An unlicensed individual who acts under [§ 14-302 or § 14-306] § 14-109 of this title OR REGULATIONS ADOPTED IN ACCORDANCE WITH § 14-105(17) OF THIS TITLE may use the word “physician” together with another word to describe the occupation of the individual as in phrases such as “physician’s assistant” or “physician’s aide”.”;

and after line 7, insert:

“15-202.

(a) (1) The Committee shall consist of 7 members appointed by the [Board] SECRETARY.

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(2) Of the 7 Committee members:

(i) 3 shall be licensed physicians;

(ii) 3 shall be certified physician assistants; and

(iii) 1 shall be a consumer.

(3) Of the licensed physician members:

(i) At least 1 shall specialize in general surgery or a surgical subspecialty;

and

(ii) At least 1 shall specialize in internal medicine, family practice, or a similar primary care specialty.

(4) The [Board] SECRETARY shall:

(i) Appoint the physician assistant members from a list of names submitted by:

1. The Maryland Academy of Physician Assistants; and

2. The State institutions of higher education with approved physician assistant programs;

(ii) Appoint the consumer member selected by the Secretary of [the Department of] Health and Mental Hygiene; and

(iii) [Assign a physician member of the Board to serve as a voting Board representative at all meetings of the Advisory Committee] SERVE AS A VOTING REPRESENTATIVE OR APPOINT A DESIGNEE.

(5) The consumer member:

(i) Shall be a member of the general public;

(ii) May not be a physician, former physician, physician assistant, or a person in training to become a physician or physician assistant;

(iii) May not have a household member who is a physician or physician assistant, or a person in training to become a physician assistant; and

(iv) May not have had within 2 years before appointment a substantial financial interest in a process regulated by the [Board] SECRETARY.

(6) Each member of the Committee shall be a resident of the State.

15-311.

Subject to the hearing provisions of § 15-313 of this subtitle, the [Board, on the affirmative vote of a majority of its members then serving,] SECRETARY may deny a certificate to any applicant for:

(1) Failure to meet the qualifications for certification; or

(2) Any of the reasons that are grounds for disciplinary action under § 15-314 of this subtitle.

15-314.

Subject to the hearing provisions of § 15-315 of this subtitle, the [Board, on the affirmative vote of a majority of its members then serving,] SECRETARY may reprimand any certificate holder or suspend or revoke a certificate if the certificate holder:

(1) Fraudulently or deceptively obtains or attempts to obtain a certificate for the applicant or certificate holder or for another individual;

(Over)

- (2) Fraudulently or deceptively uses a certificate;
- (3) Violates any provision of this title or any regulations adopted under this title or commits any act which could serve as the basis for disciplinary action against a physician under [§ 14-404] § 14-112 of this article;
- (4) Performs delegated medical acts beyond the scope of the certificate not within a delegation agreement approved by the [Board] SECRETARY;
- (5) Performs delegated medical acts without the supervision of a physician;
- (6) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the certificate holder is certified and qualified to render because the individual is HIV positive;
- (7) 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
- (8) Is in breach of a service obligation resulting from the applicant’s or certificate holder’s receipt of State or federal funding for the applicant’s or certificate holder’s physician assistant education.

Article - Courts and Judicial Proceedings

5-715.

- (a) (1) In this section the following words have the meanings indicated.
- (2) [“Board” means the State Board of Physician Quality Assurance.
- (3)] “Faculty” means the Medical and Chirurgical Faculty of the State of Maryland.
- (3) “SECRETARY” MEANS THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

(b) A person who acts without malice and is [a member of the Board] THE SECRETARY or a legally authorized agent of the [Board] SECRETARY, is not civilly liable for investigating, prosecuting, participating in a hearing under [§ 14-405] TITLE 14 of the Health Occupations Article, or otherwise acting on an allegation of a ground for [Board] action BY THE SECRETARY made to the [Board] SECRETARY or the Faculty.

(c) A person who acts without malice is not civilly liable for making an allegation of a ground for [Board] action BY THE SECRETARY to the [Board] SECRETARY or Faculty.

(d) Any person who acts in good faith is not civilly liable for giving any of the information required under [§ 14-413 or § 14-414] § 14-118 OR § 14-119 of the Health Occupations Article.”.

AMENDMENT NO. 6

On page 9, in line 20, strike the comma and substitute “and respiratory care practitioners and the certification and regulation of”; and in line 22, strike “respiratory care practitioners” and substitute “physician assistants”.

On page 10, in line 6, strike the first “and”; in the same line, after the second “technologists” insert “, and physician assistants”; strike in their entirety lines 11 through 14, inclusive; in lines 15 and 17, strike “(h)” and “(i)”, respectively, and substitute “(g)” and “(h)”, respectively; in line 16, strike “unlicenced” and substitute “unlicensed”; in line 41, after “affect” insert “:

(a)”;

and in the same line, strike “any” and substitute “Any”.

On page 11, in line 2, strike “State Board of Physician Quality Assurance” and substitute “Board”;

(b) The continuation of a pending investigation according to procedures in place at the time the investigation was begun, except in accordance with new procedures implemented by the

Secretary of Health and Mental Hygiene in accordance with this Act;

(c) A charge issued by the Board, except in accordance with new procedures implemented by the Secretary in accordance with this Act;

(d) A sanction previously imposed by the Board; or

(e) An appeal from an order of the Board”;

and in line 5, after “references” insert “, cross-references, and terminology”.