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By: **Delegate McHale**

Introduced and read first time: January 27, 2003

Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations - Medical Review Committees**

3 FOR the purpose of expanding the category of medical review committees to include a  
4 certain center designated by the Maryland Health Commission; and generally  
5 relating to medical review committees.

6 BY repealing and reenacting, with amendments,  
7 Article - Health Occupations  
8 Section 1-401  
9 Annotated Code of Maryland  
10 (2000 Replacement Volume and 2002 Supplement)

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

13 **Article - Health Occupations**

14 1-401.

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

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

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

- 19 1. A health maintenance organization;
- 20 2. A preferred provider organization;
- 21 3. An independent practice association;
- 22 4. A community health center that is a nonprofit,  
23 freestanding ambulatory health care provider governed by a voluntary board of  
24 directors and that provides primary health care services to the medically indigent;

1                                5.        A freestanding ambulatory care facility as that term is  
2 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)        A committee or individual designated by the holder of a pharmacy  
35 permit, as defined in § 12-101 of this article, that performs the functions listed in

1 subsection (c) of this section, as part of a pharmacy's ongoing quality assurance  
2 program;

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

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

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

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

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

16 (10) A committee appointed by or established in an accredited health  
17 occupations school;

18 (11) An organization described under § 14-501 of this article that  
19 contracts with a hospital, related institution, or health maintenance organization to:

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

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

26 (12) An accrediting organization as defined in § 14-501 of this article;  
27 [or]

28 (13) A Mortality Review Committee established under § 5-801 of the  
29 Health - General Article; OR

30 (14) A CENTER DESIGNATED BY THE MARYLAND HEALTH CARE  
31 COMMISSION AS THE MARYLAND PATIENT SAFETY CENTER THAT PERFORMS THE  
32 FUNCTIONS LISTED IN SUBSECTION (C) OF THIS SECTION.

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

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

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

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

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

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

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

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

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

19                   (iii)   A health maintenance organization to ensure compliance with  
20 the National Committee for Quality Assurance (NCQA) credentialing requirements;  
21 or

22                   (iv)    An accrediting organization to ensure compliance with  
23 accreditation requirements or the procedures and policies of the accrediting  
24 organization.

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

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

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

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

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

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

4     (f)     (1)     A person shall have the immunity from liability described under §  
5 5-637 of the Courts and Judicial Proceedings Article for any action as a member of  
6 the medical review committee or for giving information to, participating in, or  
7 contributing to the function of the medical review committee.

8           (2)     A contribution to the function of a medical review committee includes  
9 any statement by any person, regardless of whether it is a direct communication with  
10 the medical review committee, that is made within the context of the person's  
11 employment or is made to a person with a professional interest in the functions of a  
12 medical review committee and is intended to lead to redress of a matter within the  
13 scope of a medical review committee's functions.

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

16           (1)     The Board of Physician Quality Assurance; and

17           (2)     Any other entity, to the extent that it is acting in an investigatory  
18 capacity for the Board of Physician Quality Assurance.

19     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2003.