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By: Delegate Hubbard

Introduced and read first time: January 30, 2003 Assigned to: Health and Government Operations

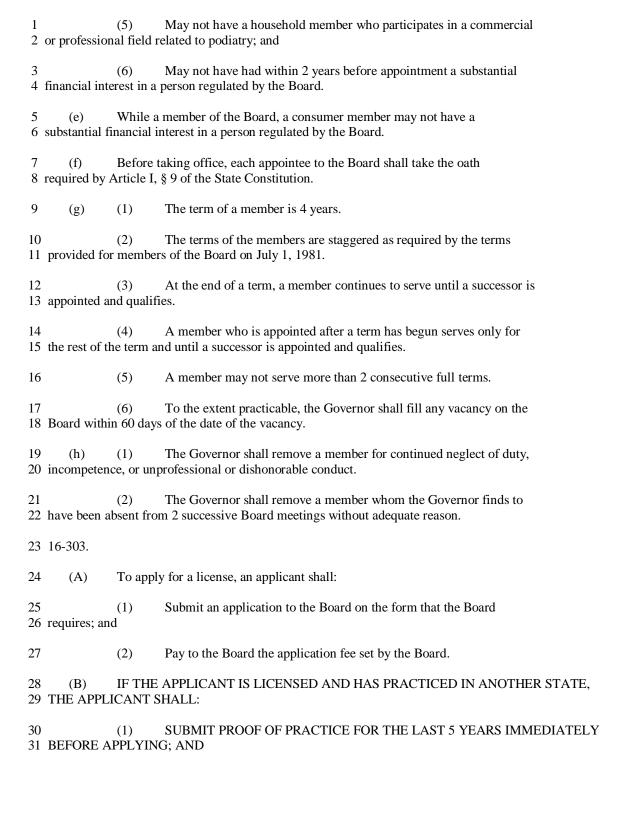
A BILL ENTITLED

1	AN ACT	concerning
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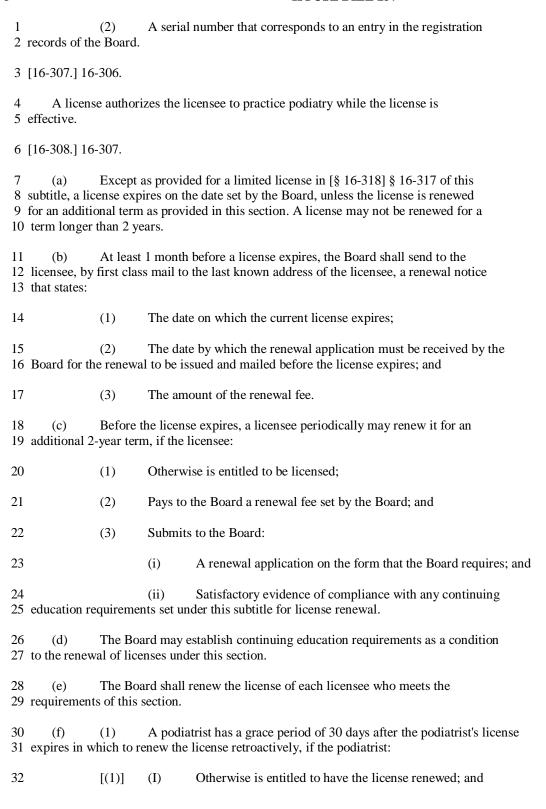
2	State Board of Podiatric Medical Examiners - Revisions - Licensure and
3	Penalties Penalties

- 4 FOR the purpose of altering certain qualifications for members of the State Board of
- 5 Podiatric Medical Examiners; altering certain requirements for applicants for a
- 6 license to practice podiatry, for the reinstatement of licensees, for nonrenewed
- 7 and inactive licensees, and for a limited license; adding certain requirements for
- 8 individuals licensed in another state to practice or teach in Maryland for a
- 9 certain period of time; increasing certain monetary penalties; making technical
- 10 corrections; and generally relating to the State Board of Podiatric Medical
- 11 Examiners and the licensure of podiatrists.
- 12 BY repealing and reenacting, with amendments,
- 13 Article Health Occupations
- 14 Section 16-202, 16-303, 16-306 through 16-319, inclusive, and 16-505
- 15 Annotated Code of Maryland
- 16 (2000 Replacement Volume and 2002 Supplement)
- 17 BY repealing
- 18 Article Health Occupations
- 19 Section 16-305
- 20 Annotated Code of Maryland
- 21 (2000 Replacement Volume and 2002 Supplement)
- 22 BY adding to
- 23 Article Health Occupations
- 24 Section 16-318
- 25 Annotated Code of Maryland
- 26 (2000 Replacement Volume and 2002 Supplement)
- 27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 28 MARYLAND, That the Laws of Maryland read as follows:

1			Article - Health Occupations
2	16-202.		
3	(a)	(1)	The Board consists of 7 members.
4		(2)	Of the 7 Board members:
5			(i) 5 shall be licensed podiatrists; and
6			(ii) 2 shall be consumer members.
			The Governor shall appoint the podiatrist members, with the advice a list of names submitted by the Maryland Podiatric Medical aber of names on the list shall be twice the number of vacancies.
10 11	the Secretar	(4) y and the	The Governor shall appoint the consumer members with the advice of advice and consent of the Senate.
	(-)		The list submitted by the Maryland Podiatric Medical Association s of nominees chosen by a majority of its members present at a at purpose.
17		at appear	At least 2 weeks before the meeting required by paragraph (1) of this tary of the Association shall mail to its members, at the on the records of the Association, notice stating the time, place, eeting.
19	(c)	Each po	diatrist member of the Board shall be:
20 21	[and]	(1)	A licensed practicing podiatrist of recognized ability and integrity;
22 23	least 5 years	(2) s immedia	A resident of this State who has practiced actively in this State for at ately before appointment; AND
24 25	EXPERIEN	(3) CE.	A LICENSED PODIATRIST WITH SIGNIFICANT PEER REVIEW
26	(d)	Each co	nsumer member of the Board:
27		(1)	Shall be a member of the general public;
28 29	podiatrist;	(2)	May not be or ever have been a podiatrist or in training to become a
30 31	to become a	(3) podiatris	May not have a household member who is a podiatrist or in training st;
32 33	professional	(4) field rela	May not participate or ever have participated in a commercial or ated to podiatry;



	(2) MALPRACTICE : THE APPLICANT	SUIT OR C	T CERTIFIED COPIES OF THE FINAL RESOLUTION OF ANY LAIM FOR DAMAGES THAT HAS BEEN SETTLED AGAINST	
4	[16-305.			
	(a) (1) examination require to practice podiatry	ements of the	to the provisions of this subsection, the Board shall waive the his subtitle for an applicant who is certified or licensed er state.	
8 9	(2) applicant:	The Box	ard may grant a waiver under this subsection only if the	
10		(i)	Is of good moral character;	
11		(ii)	Pays the application fee set by the Board; and	
12		(iii)	Provides adequate evidence that the applicant:	
13			1. Is licensed in the other state;	
14 15	substantially equiv	valent to the	2. Became licensed in the other state under requirements requirements of this title; and	
16 17	immediately before	re applying	3. Practiced podiatry in the other state for at least 5 years for a license in this State.	
18	(3)	The Boa	ard may grant a waiver under this subsection only if:	
			The state in which the applicant is licensed waives the is State to a similar extent as this State waives the ensed in that state; and	
22 23	required by this S	(ii) tate.	The applicant has not previously failed the examination	
	1 (b) The Board may waive the written examination requirement of this subtitle for an applicant who has passed the examination given by the National Board of Podiatry Examiners.]			
27	[16-306.] 16-305.			
	28 (a) The Board shall issue a license to any applicant who, by the affirmative vote of a majority of the full authorized membership of the Board, meets the requirements of this title.			
31	(b) The	Board shall	include on each license that the Board issues:	
		CARY OF T	gnatures of at least three members of the Board] SIGNATURE HE DEPARTMENT OF HEALTH AND MENTAL HYGIENE eets the requirements of this title; and	



1 2	Board.	[(2)]	(II)	Pays to the Board the renewal fee and any late fee set by the
3		(2)	AFTER	THE GRACE PERIOD OF 30 DAYS, THE EXPIRED LICENSEE:
4			(I)	LAPSES INTO A NONRENEWAL STATUS; AND
5 6	REINSTATE	ED.	(II)	SHALL MEET THE REQUIREMENTS OF § 16-308 TO BE
7	[16-309.] 16-	-308.		
8 9	(a) submits to th	(1) e Board:	The Boa	ard may place a licensee on inactive status, if the licensee
10 11	Board; and		(i)	An application for inactive status on the form required by the
12			(ii)	The inactive status fee set by the Board.
13 14	status if the	(2) individua		ard shall issue a license to an individual who is on inactive s to the Board:
15 16	education re	quiremer	(i) nts the Bo	Satisfactory evidence of compliance with the continuing pard adopts for this purpose; [and]
17			(ii)	A reinstatement fee set by the Board;
18			(III)	A LICENSURE AFFIDAVIT;
19			(IV)	FEDERATION OF BOARDS CERTIFICATION OF GOOD STANDING;
20 21	INTEGRITY	Y AND P	(V) PROTEC	AN ACCEPTABLE INQUIRY TO THE NATIONAL HEALTHCARE FION DATA BANK;
22			(VI)	HISTORY OF MALPRACTICE CASES;
23 24	REINSTAT	EMENT;	(VII) ; AND	PROOF OF PRACTICE PRECEDING THE REQUEST FOR
	EXAMINA		SADMIN	PROOF OF PASSING THE ETHICS-JURISPRUDENCE VISTER BY THE BOARD WITHIN THE LAST LICENSING CYCLE UAL'S REINSTATEMENT APPLICATION.
30	HAS BEEN THE REQU	EST FOI	CTIVE S R REINS	DARD SHALL REINSTATE THE LICENSE OF A PODIATRIST WHO STATUS AND NOT PRACTICING IMMEDIATELY PRECEDING TATEMENT, IF THE PODIATRIST MEETS THE LINING A NEW LICENSE UNDER THIS TITLE.

- 1 (b) The Board shall reinstate the license of a podiatrist who has not been put
- 2 on inactive status and who has failed to renew the license FOR 1 LICENSING CYCLE OR
- 3 A 2-YEAR PERIOD, WHICHEVER IS LONGER, for any reason, if the podiatrist:
- 4 (1) Meets the renewal requirements of [§ 16-308] § 16-307(C) THROUGH
- 5 (F) of this subtitle AND SUBSECTION (A) OF THIS SECTION;
- 6 (2) Pays to the Board all past-due renewal fees and the reinstatement
- 7 fee set by the Board; and
- 8 [(3) Applies to the Board for reinstatement of the license within 5 years
- 9 after the license expires.
- 10 (c) The Board may not reinstate the license of a podiatrist who fails to apply
- 11 for reinstatement of the license within 5 years after the license expires. However, a
- 12 podiatrist may become licensed by meeting the current requirements for obtaining a
- 13 new license under this title.]
- 14 (3) MEETS THE REQUIREMENTS FOR OBTAINING A NEW LICENSE
- 15 UNDER THIS SUBTITLE.
- 16 [16-310.] 16-309.
- 17 (A) Each licensee shall notify the Board of any change of address WITHIN 30
- 18 DAYS OF THE CHANGE OF ADDRESS.
- 19 (B) THE BOARD SHALL ASSESS A FEE AGAINST ANY LICENSEE WHO FAILS TO
- 20 NOTIFY THE BOARD OF A CHANGE OF ADDRESS AS REQUIRED BY SUBSECTION (A) OF
- 21 THIS SECTION.
- 22 [16-311.] 16-310.
- 23 (a) Unless the Board agrees to accept the surrender of a license, a licensed
- 24 podiatrist or holder of a limited license may not surrender the license nor may the
- 25 license lapse by operation of law while the licensee is under investigation or while
- 26 charges are pending against the licensee.
- 27 (b) The Board may set conditions on its agreement with the licensee under
- 28 investigation or against whom charges are pending to accept surrender of the license.
- 29 [16-312.] 16-311.
- 30 (a) Subject to the hearing provisions of [§ 16-314] § 16-313 of this subtitle, the
- 31 Board, on the affirmative vote of a majority of its members then serving, may deny a
- 32 license or a limited license to any applicant, reprimand any licensee or holder of a
- 33 limited license, impose an administrative monetary penalty not exceeding [\$5,000]
- 34 \$50,000 on any licensee or holder of a limited license, place any licensee or holder of a
- 35 limited license on probation, or suspend or revoke a license or a limited license if the
- 36 applicant, licensee, or holder:

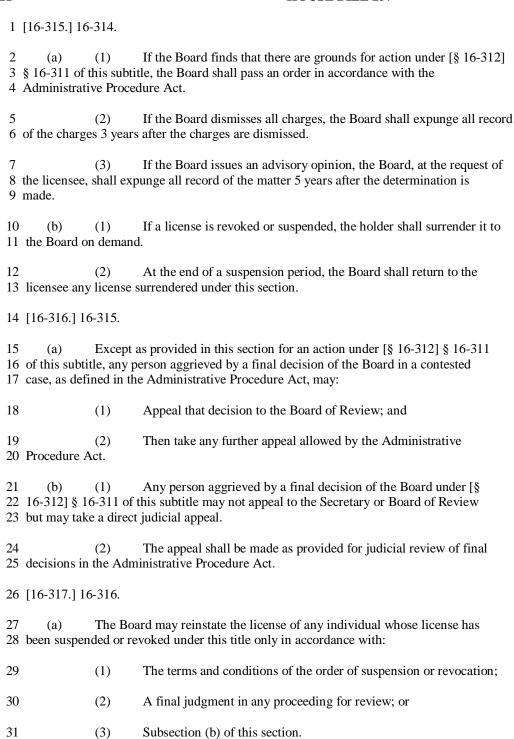
1 2	(1) for the applicant or lie	Fraudulently or deceptively obtains or attempts to obtain a license censee or for another;
3	(2)	Fraudulently or deceptively uses a license;
		Is convicted of or pleads guilty or nolo contendere to a felony or to a l turpitude, whether or not any appeal or other proceeding is onviction or plea set aside;
7	(4)	Abandons a patient;
8	(5)	Provides professional services while:
9		(i) Under the influence of alcohol; or
		(ii) Using any narcotic or controlled dangerous substance, as the Criminal Law Article, or other drug that is in excess of or without valid medical indication;
13 14	(6) individual to perform	Has a condition, illness, or disease that may impair the ability of the a podiatric services;
15 16	(7) law;	Personally uses a controlled dangerous substance in violation of the
17 18	(8) other person in viola	Prescribes or distributes a controlled dangerous substance to any tion of the law;
19 20	(9) in a manner that expl	Promotes the sale to a patient of drugs, devices, appliances, or goods oits the patient for financial gain;
21 22	rendered; (10)	Willfully makes or files a false report or record of podiatric services
	impedes or obstructs file or record the repo	Willfully fails to file or record any report as required by law, willfully the filing or recording of the report, or induces another to fail to ort;
26	(12)	Submits a false statement to collect a fee;
	(13) licensed health care proper request;	Fails to provide the details of the medical records of a patient to a practitioner or institution or an authorized insurance carrier on
30 31	a patient; (14)	Pays or agrees to pay any sum to any person for bringing or referring
32 33	(15) unauthorized person	Practices podiatry with an unauthorized person or aids an in the practice of podiatry;
34	(16)	Grossly overutilizes health care services;

1 2	podiatry; (17)	Behaves fraudulently, immorally, or unprofessional in the practice of		
3	(18)	Is professionally or mentally incompetent;		
4	(19)	Violates any provision of this title;		
5	(20)	Advertises in a false or misleading manner;		
8	LICENSEE, OR H	Has had a license to practice podiatry denied, suspended, or revoked BY OTHER DISCIPLINARY ACTION TAKEN AGAINST THE APPLICANT, COLDER in any [other] state for an act that would be grounds for under this section;		
10	(22)	Violates any rules or regulations adopted by the Board;		
11	(23)	Fails to comply with the provisions of § 12-102 of this article;		
		Refuses, withholds from, denies, or discriminates against an gard to the provision of professional services for which the licensee alified to render because the individual is HIV positive;		
	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;			
18	(26)	Fails to display the notice required under § 16-404 of this title; or		
19 20	(27) Board.	Fails to cooperate with a lawful investigation conducted by the		
23	Subject to the hearing provisions of [§ 16-314] § 16-313 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may revoke the license of a podiatrist who practices podiatry while the podiatrist's license is suspended.			
25 26		n affirmative vote of the majority of its members then serving, the dvisory opinions when:		
	(1) certain practices a against the license	The Board determines that the licensee should modify or eliminate nd that continuation of the practices may result in an action se's license; or		
	(2) reprimand the lice license of the licer	The Board determines that there is not sufficient evidence to nsee, place the licensee on probation, or suspend or revoke the nsee.		
33 34		Board may impose a monetary penalty under this section alone or in mand, probation, suspension, or revocation.		

- 1 (e) By regulation, the Board shall establish standards for the imposition of 2 penalties under this section.
- 3 [16-313.] 16-312.
- 4 (a) The Board may investigate any complaint filed with the Board that alleges 5 that there are grounds for action under [§ 16-312] § 16-311 of this subtitle.
- 6 (b) After its investigation, the Board, on the affirmative vote of a majority of 7 its members then serving, may commence action on any of the grounds set forth in [§ 8 16-312] § 16-311 of this subtitle.
- 9 (c) (1) Except as provided in paragraph (2) of this subsection, until the 10 Board passes an order under [§ 16-315] § 16-314 of this subtitle, each related
- 11 investigation, report, and recommendation is confidential.
- 12 (2) On the request of a person who has made a complaint to the Board, 13 the Board shall provide the person with information on the status of the complaint.
- 14 [16-314.] 16-313.
- 15 (a) Except as otherwise provided in the Administrative Procedure Act, before
- 16 the Board takes any action under [§ 16-312] § 16-311 of this subtitle, it shall give the
- 17 individual against whom the action is contemplated an opportunity for a hearing
- 18 before the Board.
- 19 (b) The Board shall give notice and hold the hearing in accordance with the 20 Administrative Procedure Act.
- 21 (c) The individual may be represented at the hearing by counsel.
- 22 (d) Over the signature of an officer or the administrator of the Board, the
- 23 Board may issue subpoenas and administer oaths in connection with any
- 24 investigation under this title and any hearings or proceedings before it.
- 25 (e) If, without lawful excuse, a person disobeys a subpoena from the Board or
- 26 an order by the Board to take an oath or to testify or answer a question, then, on
- 27 petition of the Board, a court of competent jurisdiction may punish the person as for
- 28 contempt of court.
- 29 (f) If after due notice the individual against whom the action is contemplated
- 30 fails or refuses to appear, nevertheless the Board may hear and determine the matter.
- 31 (g) If, after a hearing, an individual is found in violation of [§ 16-312] § 16-311
- 32 of this subtitle, the individual shall pay the costs of the hearing as specified in a
- 33 regulation adopted by the Board.

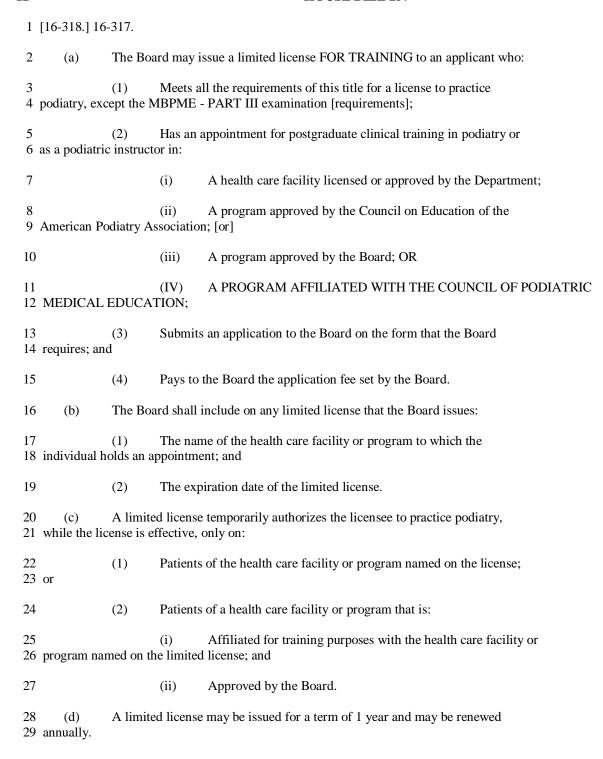
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34 Board.



If the license was revoked under [§ 16-312(b)] § 16-311(B) of this subtitle

33 for practicing with a suspended license, it may be reinstated at the discretion of the



1	16-318.		
2 3	(A) LICENSED		OARD MAY ISSUE A TEMPORARY LICENSE TO A PODIATRIST THER STATE TO PRACTICE OR TEACH PODIATRY IN THIS STATE IF:
4 5	REQUIREM	(1) IENTS E	THE LICENSE ISSUED FROM THE OTHER STATE HAS LICENSING QUIVALENT TO THOSE IN THIS STATE; AND
6 7	DETERMIN	(2) ED BY 7	THE LICENSED PODIATRIST PAYS A TEMPORARY LICENSE FEE AS THE BOARD.
8 9	(B) PRACTICE		PORARY LICENSE TEMPORARILY AUTHORIZES THE LICENSEE TO RY, WHILE THE LICENSE IS EFFECTIVE, ONLY ON:
10 11	THE LICEN	(1) NSE; OR	PATIENTS OF THE HEALTH CARE FACILITY OR PROGRAM NAMED ON
12		(2)	PATIENTS OF A HEALTH CARE FACILITY OR PROGRAM THAT IS:
13 14	CARE FAC	ILITY O	(I) AFFILIATED FOR TRAINING PURPOSES WITH THE HEALTH R PROGRAM NAMED ON THE TEMPORARY LICENSE; AND
15			(II) APPROVED BY THE BOARD.
16 17	(C) MAY BE R		PORARY LICENSE MAY BE ISSUED FOR A TERM OF 3 MONTHS AND D AT THE DISCRETION OF THE BOARD.
18	16-319.		
19 20	(a) enjoin:	An actio	on may be maintained in the name of the State or the Board to
21		(1)	The unauthorized practice of podiatry; or
22 23	16-311 of th	(2) nis subtitle	Conduct that is a ground for disciplinary action under [§ 16-312] § e.
24	(b)	An actio	n under this section may be brought by:
25		(1)	The Board, in its own name;
26		(2)	The Attorney General, in the name of the State; or
27		(3)	A State's Attorney, in the name of the State.
28 29	(c) defendant:	An actio	on under this section shall be brought in the county where the
30		(1)	Resides; or
31		(2)	Engages in the act sought to be enjoined.

- 1 (d) Proof of actual damage or that any person will sustain any damage if an 2 injunction is not granted is not required for an action under this section.
- 3 (e) An action under this section is in addition to and not instead of criminal 4 prosecution for the unauthorized practice of podiatry under § 16-501 of this title.
- 5 16-505.
- 6 (a) Any person who practices, attempts to practice, or offers to practice
- 7 podiatry in this State without complying with the provisions of this title is guilty of a
- 8 misdemeanor and on conviction is subject to a fine not exceeding [\$200] \$5,000 or
- 9 imprisonment not exceeding 90 days.
- 10 (b) Any person who violates § 16-501 of this subtitle is subject to a civil fine of 11 not more than [\$5,000] \$50,000 to be levied by the Board.
- 12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take 13 effect October 1, 2003.