

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 255
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after the first “of” insert “authorizing certain regulatory boards to investigate certain claims;”; in line 11, after “circumstances;” insert “altering the percentages of certain fees required to be distributed in certain fiscal years from the Board to the Office of Student Financial Assistance within the Maryland Higher Education Commission for certain uses under certain circumstances;”; strike beginning with “requiring” in line 11 down through “regulations;” in line 25; and in line 26, after “penalty” insert “in lieu of certain sanctions”.

On page 2, strike beginning with “requiring” in line 2 down through “information;” in line 8 and substitute “altering the persons with which the Board must contract for peer review services; requiring the Board to obtain a certain number of peer review reports for certain allegations; altering certain qualifications a peer reviewer must meet; authorizing the Board to consult with certain societies to establish a list of physicians qualified to provide peer review services; authorizing the Board to use sole source procurement under certain circumstances; prohibiting certain stays of challenges because of the selection of certain peer reviewers prior to certain filings;”; strike beginning with “requiring” in line 10 down through “rehabilitation;” in line 11 and substitute “requiring the Board to issue a request for proposals and enter into a certain contract with a nonprofit entity to provide certain rehabilitation services on or before a certain date; requiring the Board to directly provide certain rehabilitation services under certain circumstances;”; in line 13, strike “further investigation and physician peer review” and substitute “investigatory, mediation, and related services”; in line 15, after “activities;” insert “establishing separate grounds for disciplinary action for immoral conduct and unprofessional conduct;”; strike beginning with “modifying” in line 17 down through “profiles” in line 19 and substitute “repealing the requirement that certain medical malpractice settlement information be

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available as part of a licensee's public individual profile; requiring the Board to provide certain notification regarding certain malpractice settlement information on the Board's Internet site; requiring the Board to provide certain information within a certain period of time"; strike beginning with "requiring" in line 19 down through "reporting;" in line 24; in line 26, strike "entities" and substitute "individual"; in line 27, strike "contract" and substitute "contracts"; strike beginning with "requiring" in line 31 down through "circumstances;" in line 33; strike beginning with "providing" in line 35 down through "referral;" in line 37; and in line 43, after "experience;" insert "authorizing the Board to adopt certain regulations to qualify certain physicians to practice certain opioid addiction therapy; repealing certain provisions of law relating to the use of peer reviewers by a certain entity or entities and the Board;".

On pages 2 and 3, strike beginning with "requiring" in line 43 on page 2 down through "decision;" in line 1 on page 3.

On page 3, in line 4, after "date;" insert "requiring the Board to provide certain training to certain personnel of the Office of Administrative Hearings; requiring the Department of Health and Mental Hygiene and the Office of the Attorney General to review a certain process for investigating self-referral cases and make certain recommendations on or before a certain date; requiring the Board to submit a certain report regarding certain disagreement among certain peer reviewers on or before a certain date; requiring the Governor to include funding for certain new regular positions for the Board in the annual budget bill for a certain fiscal year;"; in line 11, after "Section" insert "1-306,"; in lines 11 and 12, strike "14-307(a) and (f), 14-309(a), 14-313,"; in line 12, after "14-402," insert "14-404(a)(3),"; in the same line, strike "14-411(b) and (c)" and substitute "14-411(c)"; in line 13, strike "14-411.1(b)(4)," and substitute "14-411.1(b), (c), (d),"; in the same line, strike "14-413(b), 14-414(b),"; in line 19, strike "14-307.1, 14-316(g), 14-322, 14-411.2,"; in line 25, after "Section" insert "14-316(e)"; in the same line, after "14-411(a)" insert "and (b)"; in the same line, strike "14-411.1(b)(3)," and strike in their entirety lines 28 through 32, inclusive.

On page 4, in line 4, strike "and reenacting, with amendments,".

AMENDMENT NO. 2

On page 4, after line 9, insert:

“1-306.

(A) A health care practitioner who fails to comply with the provisions of this subtitle shall be subject to disciplinary action by the appropriate regulatory board.

(B) THE APPROPRIATE REGULATORY BOARD MAY INVESTIGATE A CLAIM UNDER THIS SUBTITLE IN ACCORDANCE WITH THE INVESTIGATIVE AUTHORITY GRANTED UNDER THIS ARTICLE.”

On page 5, in line 3, after “THE” insert “NONPROFIT”; in the same line, strike “or entities with whom” and substitute “WITH WHICH”; and in line 6, strike “in need of” and substitute “WHO ARE DIRECTED BY THE BOARD TO RECEIVE”.

AMENDMENT NO. 3

On page 7, in line 10, strike “14” and substitute “EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, 10”; after line 22, insert:

“(II) 1. FOR FISCAL 2008, IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 14 PERCENT OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER PARAGRAPH (I) OF THIS PARAGRAPH.

2. FOR FISCAL 2009, IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER PARAGRAPH (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 12 PERCENT OF

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THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.;

and in line 23, strike “(ii)” and substitute “**(III)**”.

On pages 8 through 10, strike in their entirety the lines beginning with line 19 on page 8 through line 20 on page 10, inclusive.

AMENDMENT NO. 4

On page 11, in line 5, after “CREDIT” insert “**IN LIEU OF A SANCTION UNDER § 14-404 OF THIS TITLE**”; in line 8, strike the brackets; and in the same line, strike beginning with “SUBJECT” through “THE”.

On pages 11 and 12, strike in their entirety the lines beginning with line 10 on page 11 through line 16 on page 12, inclusive.

AMENDMENT NO. 5

On page 14, strike beginning with “The” in line 3 down through “county” in line 5 and substitute “**COUNTY**”; in line 8, after “(1)” insert “**(I)**”; in the same line, strike “Except as provided in” and substitute “**IN ACCORDANCE WITH**”; in line 9, strike “entities” and substitute “**INDIVIDUAL**”; in the same line, strike “further”; in line 10, strike “INVESTIGATION and” and substitute “**CONFIDENTIAL**”; after line 11, insert:

“(I) THE BOARD SHALL OBTAIN TWO PEER REVIEW REPORTS FOR EACH ALLEGATION IT REFERS FOR PEER REVIEW.”;

strike line 12 in its entirety and substitute:

“(2) A PEER REVIEWER SHALL:”;

in line 13, strike “Are” and substitute “**BE**”; in line 17, strike “their own licenses” and substitute “**THE PEER REVIEWER’S OWN LICENSE**”; in line 18, strike “and”; in line 19, after “reports” insert “**; AND**”

(VII) TO THE EXTENT PRACTICABLE, BE LICENSED AND ENGAGED IN THE PRACTICE OF MEDICINE WITHIN THE PAST YEAR IN THE STATE”;

strike beginning with “The” in line 20 down through “State.” in line 21 and substitute “**THE BOARD MAY CONSULT WITH THE APPROPRIATE SPECIALTY HEALTH CARE PROVIDER SOCIETIES IN THE STATE TO OBTAIN A LIST OF PHYSICIANS QUALIFIED TO PROVIDE PEER REVIEW SERVICES.**”

(4) FOR PURPOSES OF PEER REVIEW, THE BOARD MAY USE SOLE SOURCE PROCUREMENT UNDER § 13-107 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(5) THE HEARING OF CHARGES MAY NOT BE STAYED OR CHALLENGED BECAUSE OF THE SELECTION OF PEER REVIEWERS UNDER THIS SUBSECTION BEFORE THE FILING OF CHARGES.”;

and in lines 22 and 25, in each instance, strike “entities” and substitute “**INDIVIDUAL PEER REVIEWER**”.

On page 15, in lines 2 and 4, in each instance, after “entity” insert “**OR INDIVIDUAL WHO MEETS THE REQUIREMENTS OF SUBSECTION (E)(2) OF THIS SECTION**”; and strike in their entirety lines 8 through 11, inclusive, and substitute:

“(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON OR BEFORE JANUARY 1, 2008, THE BOARD SHALL ISSUE A

REQUEST FOR PROPOSALS AND ENTER INTO A WRITTEN CONTRACT WITH A NONPROFIT ENTITY TO PROVIDE REHABILITATION SERVICES FOR PHYSICIANS OR OTHER ALLIED HEALTH PROFESSIONALS DIRECTED BY THE BOARD TO RECEIVE REHABILITATION SERVICES.

(2) IF THE BOARD DOES NOT RECEIVE A RESPONSIVE PROPOSAL UNDER PARAGRAPH (1) OF THIS SUBSECTION OR IS NOT ABLE TO CONTRACT WITH A NONPROFIT ENTITY, THE BOARD SHALL PROVIDE DIRECTLY REHABILITATION SERVICES FOR PHYSICIANS.”

AMENDMENT NO. 6

On page 17, after line 21, insert:

“14-404.

(a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(3) Is guilty of:

(I) [immoral or unprofessional] IMMORAL conduct in the practice of medicine; OR

(II) UNPROFESSIONAL CONDUCT IN THE PRACTICE OF MEDICINE;”;

in line 25, strike the brackets; and in line 26, strike “§§ 14-411.1 AND 14-411.2”.

On page 18, in line 5, after “subtitle;” insert “**OR**”; strike in their entirety lines 6 and 7; in line 8, strike “(4)” and substitute “**(3)**”; after line 13, insert:

“(1) A description of any disciplinary action taken by the Board against the licensee within the most recent 10-year period that includes a copy of the public order;

(2) A description in summary form of any final disciplinary action taken by a licensing board in any other state or jurisdiction against the licensee within the most recent 10-year period;”;

strike in their entirety lines 17 through 19, inclusive; and after line 19, insert:

“(5) (4) A description of a conviction or entry of a plea of guilty or nolo contendere by the licensee for a crime involving moral turpitude reported to the Board under § 14-413(b) of this subtitle; and

[(6)] (5) Medical education and practice information about the licensee including:

(i) The name of any medical school that the licensee attended and the date on which the licensee graduated from the school;

(ii) A description of any internship and residency training;

(iii) A description of any specialty board certification by a recognized board of the American Board of Medical Specialties or the American Osteopathic Association;

(iv) The name of any hospital where the licensee has medical privileges as reported to the Board under § 14-413 of this subtitle;

(v) The location of the licensee’s primary practice setting; and

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(vi) Whether the licensee participates in the Maryland Medical Assistance Program.

(c) In addition to the requirements of subsection (b) of this section, the Board shall:

(1) Provide appropriate and accessible Internet links from the Board's Internet site:

(i) To the extent available, to the appropriate portion of the Internet site of each health maintenance organization licensed in this State which will allow the public to ascertain the names of the physicians affiliated with the health maintenance organization; and

(ii) To the appropriate portion of the Internet site of the American Medical Association; [and]

(2) Include a statement on each licensee's profile of information to be taken into consideration by a consumer when viewing a licensee's profile, including factors to consider when evaluating a licensee's malpractice data; AND

(3) PROVIDE ON THE BOARD'S INTERNET SITE:

(I) NOTIFICATION THAT A PERSON MAY CONTACT THE BOARD BY TELEPHONE, ELECTRONIC MAIL, OR WRITTEN REQUEST TO FIND OUT WHETHER THE NUMBER OF MEDICAL MALPRACTICE SETTLEMENTS INVOLVING A PARTICULAR LICENSEE TOTALS THREE OR MORE WITH A SETTLEMENT AMOUNT OF \$150,000 OR GREATER WITHIN THE MOST RECENT 10-YEAR PERIOD AS REPORTED TO THE BOARD; AND

(II) A TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, AND PHYSICAL ADDRESS THROUGH WHICH A PERSON MAY CONTACT THE BOARD TO REQUEST THE INFORMATION REQUIRED TO BE PROVIDED UNDER ITEM (I) OF THIS ITEM.

(d) The Board:

(1) On receipt of a written request for a licensee's profile from any person, shall forward a written copy of the profile to the person; [and]

(2) Shall maintain a website that serves as a single point of entry where all physician profile information is available to the public on the Internet; AND

(3) ON RECEIPT OF A VERBAL, ELECTRONIC, OR WRITTEN REQUEST IN ACCORDANCE WITH SUBSECTION (C)(3) OF THIS SECTION, SHALL PROVIDE THE INFORMATION WITHIN 2 BUSINESS DAYS OF THE REQUEST."

AMENDMENT NO. 7

On pages 18 and 19, strike in their entirety the lines beginning with line 20 on page 18 through line 20 on page 19, inclusive.

On page 19, in line 30, strike "ENTITIES" and substitute "INDIVIDUAL"; and in the same line, strike "CONTRACT" and substitute "CONTRACTS".

On page 22, in line 21, strike "14" and substitute "EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, 10".

On page 23, after line 6, insert:

"(II) 1. FOR FISCAL 2008, IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER SUBPARAGRAPH

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(I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 14 PERCENT OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER PARAGRAPH (I) OF THIS PARAGRAPH.

2. FOR FISCAL 2009, IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER PARAGRAPH (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 12 PERCENT OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.”;

and in line 7, strike “(II)” and substitute “(III)”.

AMENDMENT NO. 8

On pages 23 and 24, strike in their entirety the lines beginning with line 19 on page 23 through line 27 on page 24, inclusive.

AMENDMENT NO. 9

On page 26, after line 14, insert:

“(C) THE BOARD MAY ADOPT REGULATIONS REGARDING EXPERIENCE OR TRAINING QUALIFICATIONS REQUIRED TO QUALIFY A PHYSICIAN TO PRACTICE OFFICE-BASED, MEDICATION-ASSISTED OPIOID ADDICTION THERAPY.”;

and strike in their entirety lines 16 through 22, inclusive.

AMENDMENT NO. 10

On page 27, in line 2, strike “15 specific” and substitute “a pool of”; after line 3, insert:

“SECTION 5. AND BE IT FURTHER ENACTED, That the State Board of Physicians shall provide training at least annually to the personnel of the Office of Administrative Hearings in order to improve the quality and efficiency of the hearings in physician discipline cases. The training shall include medical terminology, medical ethics, and, to the extent practicable, descriptions of basic medical and surgical procedures currently in use.

SECTION 6. AND BE IT FURTHER ENACTED, That, on or before October 1, 2007, the Department of Health and Mental Hygiene and the Office of the Attorney General shall:

(1) review the process for the investigation of self-referral cases by the health occupations boards;

(2) recommend a revised investigative process for self-referral cases that includes the determination of investigative resources for the health occupations boards in the investigation of self-referral cases; and

(3) report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee on their findings, recommendations, and any legislative or regulatory changes necessary to implement any recommended changes.

SECTION 7. AND BE IT FURTHER ENACTED, That the State Board of Physicians shall submit a report to the Governor and, in accordance with § 2-1246 of

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the State Government Article, to the General Assembly, on or before December 31, 2008, regarding:

(1) how many complaints reviewed by two peer reviewers resulted in disagreement between the peer reviewers; and

(2) of these complaints, how many resulted in charges being brought against a licensee.

SECTION 8. AND BE IT FURTHER ENACTED, That for fiscal 2009, the Governor shall include in the annual budget bill funding for an additional 7 new regular positions as compliance analysts for the State Board of Physicians, to be fully funded by the Board of Physicians Fund established under § 14-207 of the Health Occupations Article, in order to efficiently investigate complaints and protect the health, safety, and welfare of the public.”;

and in lines 4 and 7 strike “5.” and “6.”, respectively, and substitute “9.” and “10.”, respectively.