

# HOUSE BILL 271

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By: **Chair, Health and Government Operations Committee (By Request -  
Departmental - Health and Mental Hygiene)**

Introduced and read first time: January 23, 2008

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 20, 2008

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

### 2 **Medical Review Committees**

3 FOR the purpose of ~~altering the definition of medical review committee to include~~  
4 providing that, for purposes of certain provisions of law, the Maryland Health  
5 Care Commission or its staff is a medical review committee when performing  
6 certain functions ~~and~~ under certain circumstances; defining a certain term; and  
7 generally relating to medical review committees.

8 BY repealing and reenacting, with amendments,  
9 Article – Health Occupations  
10 Section 1-401(a) ~~and (b)~~  
11 Annotated Code of Maryland  
12 (2005 Replacement Volume and 2007 Supplement)

13 ~~BY repealing and reenacting, without amendments,~~  
14 ~~Article – Health Occupations~~  
15 ~~Section 1-401(c)~~  
16 ~~Annotated Code of Maryland~~  
17 ~~(2005 Replacement Volume and 2007 Supplement)~~

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

### 20 **Article – Health Occupations**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 1-401.

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

3 (2) (i) “Alternative health care system” means a system of health  
4 care delivery other than a hospital or related institution.

5 (ii) “Alternative health care system” includes:

6 1. A health maintenance organization;

7 2. A preferred provider organization;

8 3. An independent practice association;

9 4. A community health center that is a nonprofit,  
10 freestanding ambulatory health care provider governed by a voluntary board of  
11 directors and that provides primary health care services to the medically indigent;

12 5. A freestanding ambulatory care facility as that term  
13 is defined in § 19-3B-01 of the Health – General Article; or

14 6. Any other health care delivery system that utilizes a  
15 medical review committee.

16 (3) “Medical review committee” means a committee or board that:

17 (i) Is within one of the categories described in subsection (b) of  
18 this section; and

19 (ii) Performs functions that include at least one of the functions  
20 listed in subsection (c) of this section.

21 (4) (i) “Provider of health care” means any person who is licensed  
22 by law to provide health care to individuals.

23 (ii) “Provider of health care” does not include any nursing  
24 institution that is conducted by and for those who rely on treatment by spiritual  
25 means through prayer alone in accordance with the tenets and practices of a  
26 recognized church or religious denomination.

27 (5) “The Maryland Institute for Emergency Medical Services Systems”  
28 means the State agency described in § 13-503 of the Education Article.

29 (6) **“THE MARYLAND HEALTH CARE COMMISSION” MEANS THE**  
30 **STATE AGENCY DESCRIBED IN § 19-103 OF THE HEALTH – GENERAL ARTICLE.**

1 (b) For purposes of this section, a medical review committee is:

2 (1) A regulatory board or agency established by State or federal law to  
3 license, certify, or discipline any provider of health care;

4 (2) A committee of the Faculty or any of its component societies or a  
5 committee of any other professional society or association composed of providers of  
6 health care;

7 (3) A committee appointed by or established in a local health  
8 department for review purposes;

9 (4) A committee appointed by or established in the Maryland Institute  
10 for Emergency Medical Services Systems;

11 (5) A committee of the medical staff or other committee, including any  
12 risk management, credentialing, or utilization review committee established in  
13 accordance with § 19–319 of the Health – General Article, of a hospital, related  
14 institution, or alternative health care system, if the governing board of the hospital,  
15 related institution, or alternative health care system forms and approves the  
16 committee or approves the written bylaws under which the committee operates;

17 (6) A committee or individual designated by the holder of a pharmacy  
18 permit, as defined in § 12–101 of this article, that performs the functions listed in  
19 subsection (c) of this section, as part of a pharmacy’s ongoing quality assurance  
20 program;

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

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

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

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

32 (ii) Assist a hospital in meeting the requirements of § 19–319(e)  
33 of the Health – General Article;

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

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

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

5 (ii) Assist a health maintenance organization in meeting the  
6 requirements of Title 19, Subtitle 7 of the Health – General Article, the National  
7 Committee for Quality Assurance (NCQA), or any other applicable credentialing law  
8 or regulation;

9 (12) An accrediting organization as defined in § 14–501 of this article;

10 (13) A Mortality and Quality Review Committee established under §  
11 5–801 of the Health – General Article; [or]

12 (14) A center designated by the Maryland Health Care Commission as  
13 the Maryland Patient Safety Center that performs the functions listed in subsection  
14 (c)(1) of this section; **OR**

15 **(15) THE MARYLAND HEALTH CARE COMMISSION OR ITS STAFF,**  
16 **WHEN PERFORMING THE FUNCTIONS LISTED IN SUBSECTION ~~(C)(1) OR (2)~~ (C)**  
17 **OF THIS SECTION, PROVIDED THAT THE DATA OR MEDICAL INFORMATION**  
18 **UNDER REVIEW IS FURNISHED TO THE MARYLAND HEALTH CARE COMMISSION**  
19 **BY ANOTHER MEDICAL REVIEW COMMITTEE.**

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

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

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

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

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

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

32 (2) The proceedings, records, and files of a medical review committee  
33 are confidential and are not discoverable and are not admissible in any

1 civil action arising out of matters that are being reviewed and evaluated by the  
2 medical review committee if requested by the following:

3 (i) The Department of Health and Mental Hygiene to ensure  
4 compliance with the provisions of § 19–319 of the Health – General Article;

5 (ii) A health maintenance organization to ensure compliance  
6 with the provisions of Title 19, Subtitle 7 of the Health – General Article and  
7 applicable regulations;

8 (iii) A health maintenance organization to ensure compliance  
9 with the National Committee for Quality Assurance (NCQA) credentialing  
10 requirements; or

11 (iv) An accrediting organization to ensure compliance with  
12 accreditation requirements or the procedures and policies of the accrediting  
13 organization.

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

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

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

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

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

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

30 (f) (1) A person shall have the immunity from liability described under §  
31 5–637 of the Courts and Judicial Proceedings Article for any action as a member of the  
32 medical review committee or for giving information to, participating in, or contributing  
33 to the function of the medical review committee.

34 (2) A contribution to the function of a medical review committee  
35 includes any statement by any person, regardless of whether it is a direct  
36 communication with the medical review committee, that is made within the context of

1 the person's employment or is made to a person with a professional interest in the  
2 functions of a medical review committee and is intended to lead to redress of a matter  
3 within the scope of a medical review committee's functions.

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

6 (1) The Board of Physicians; and

7 (2) Any other entity, to the extent that it is acting in an investigatory  
8 capacity for the Board of Physicians.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 July 1, 2008.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.