

HOUSE BILL 155

C4, J2

9lr1194

By: ~~Delegates Kach and Boteler~~, Boteler, Bromwell, Schuler, Barkley, Burns, Feldman, Haddaway, Harrison, Hecht, Impallaria, King, Krysiak, Manno, McHale, Minnick, Stifler, and Vaughn

Introduced and read first time: January 23, 2009

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 25, 2009

CHAPTER _____

1 AN ACT concerning

2 **Physicians – Licensure – Liability Insurance Coverage**

3 FOR the purpose of requiring physicians who perform certain services in the State in
4 certain settings to maintain certain minimum amounts of professional liability
5 insurance or provide ~~certification~~ verification or other documentation of certain
6 coverage as a condition of licensure and notify the Board of Physicians prior to
7 cancellation of the insurance or coverage; ~~exempting certain licensed physicians~~
8 ~~from certain requirements~~; authorizing the Board to adopt certain regulations;
9 authorizing the Board to take certain actions if ~~proof certification~~ verification or
10 other documentation of insurance or coverage is not provided ~~within a certain~~
11 time as required by this Act; authorizing the Board to conduct certain audits for
12 certain purposes; ~~establishing minimum amounts of required insurance~~
13 ~~coverage~~ defining certain terms; providing for the construction of certain
14 provisions of this Act; and generally relating to physicians and liability
15 insurance coverage for certain services.

16 BY adding to

17 Article – Health Occupations

18 Section 14-312.1

19 Annotated Code of Maryland

20 (2005 Replacement Volume and 2008 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – Health Occupations

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 Section 14-316
 2 Annotated Code of Maryland
 3 (2005 Replacement Volume and 2008 Supplement)

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

6 **Article - Health Occupations**

7 **14-312.1.**

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 9 MEANINGS INDICATED.

10 (2) “FREESTANDING AMBULATORY CARE FACILITY” HAS THE
 11 MEANING STATED IN § 19-3B-01 OF THE HEALTH - GENERAL ARTICLE.

12 (3) (I) “SURGICAL SERVICES” MEANS ANY INVASIVE
 13 PROCEDURE, WHETHER THERAPEUTIC OR DIAGNOSTIC, INVOLVING THE USE OF:

14 1. ~~ANY CUTTING INSTRUMENT;~~

15 ~~2.~~ MICROSCOPIC, ENDOSCOPIC, ARTHROSCOPIC, OR
 16 LAPAROSCOPIC EQUIPMENT; OR

17 ~~3.~~ 2. A LASER FOR THE REMOVAL OR REPAIR OF AN
 18 ORGAN OR OTHER TISSUE.

19 (II) “SURGICAL SERVICES” DOES NOT INCLUDE
 20 OUTPATIENT SERVICES THAT:

21 1. ARE LIMITED TO THE SKIN AND MUCOUS
 22 MEMBRANES;

23 2. DO NOT EXTEND DEEPER THAN THE SKIN AND
 24 MUCOUS MEMBRANES; AND

25 3. ARE PERFORMED WITH LOCAL OR TOPICAL
 26 ANESTHESIA.

27 (B) (1) THIS SECTION APPLIES TO A LICENSED PHYSICIAN WHO
 28 PERFORMS OUTPATIENT SURGICAL SERVICES IN A FREESTANDING
 29 AMBULATORY CARE FACILITY IN THE STATE, ~~WHETHER IN A FREESTANDING~~
 30 ~~AMBULATORY CARE FACILITY, AN OFFICE, OR ANY OTHER NONHOSPITAL~~
 31 LOCATION.

1 **(2) THIS SECTION MAY NOT BE CONSTRUED TO APPLY TO, OR TO**
2 **PREVENT THE RENDERING OF, EMERGENCY MEDICAL SERVICES BY A LICENSED**
3 **PHYSICIAN IN ACCORDANCE WITH § 5-603 OF THE COURTS ARTICLE.**

4 **(C) EACH LICENSED PHYSICIAN SUBJECT TO THIS SECTION SHALL**
5 **MAINTAIN:**

6 **(1) (I) MAINTAIN MEDICAL PROFESSIONAL LIABILITY**
7 **INSURANCE:**

8 **(1) IN IN THE AMOUNTS OF:**

9 **(1) 1. \$500,000 PER OCCURRENCE OR CLAIM; AND**

10 **(2) 2. \$1,500,000 PER ANNUAL AGGREGATE; OR**

11 **(II) PROVIDE PROOF ATTEST THAT THE LICENSED**
12 **PHYSICIAN IS COVERED BY THE FEDERAL TORT CLAIMS ACT OR THE**
13 **MARYLAND TORT CLAIMS ACT;**

14 **(2) WITH HAVE INSURANCE OR COVERAGE DESCRIBED IN ITEM**
15 **(1)(II) OF THIS SUBSECTION THAT IS APPROPRIATE FOR THE INDIVIDUAL**
16 **PHYSICIAN’S CIRCUMSTANCES; AND**

17 **(3) IN ACCORDANCE COMPLY WITH THE ANY REGULATIONS**
18 **ADOPTED BY THE BOARD.**

19 **(B) (D) IF THE INSURANCE OR COVERAGE REQUIRED BY SUBSECTION**
20 **(A) (C) OF THIS SECTION IS CANCELED, THE LICENSED PHYSICIAN SHALL GIVE**
21 **THE SECRETARY OF THE BOARD NOTICE OF THE CANCELLATION AT LEAST 10**
22 **BUSINESS DAYS BEFORE THE EFFECTIVE DATE OF THE CANCELLATION.**

23 **(E) A LICENSED PHYSICIAN IS EXEMPT FROM THE REQUIREMENTS OF**
24 **THIS SECTION IF THE LICENSED PHYSICIAN IS:**

25 **(1) RETIRED FROM THE PRACTICE OF MEDICINE AND DOES NOT**
26 **PROVIDE MEDICAL CARE OR TREATMENT TO PATIENTS; OR**

27 **(2) (I) ENGAGED IN MEDICAL RESEARCH THAT DOES NOT**
28 **CONSTITUTE OR INVOLVE THE PROVISION OF MEDICAL CARE AND TREATMENT**
29 **TO PATIENTS; AND**

30 **(II) DOES NOT PROVIDE MEDICAL CARE OR TREATMENT TO**
31 **PATIENTS.**

1 ~~(C)~~ ~~(F)~~ **(E) THE BOARD ~~SHALL~~ MAY ADOPT REGULATIONS TO IMPLEMENT**
2 **THIS SECTION.**

3 14–316.

4 (a) (1) The Board shall provide for the term and renewal of licenses under
5 this section.

6 (2) The term of a license may not be more than 3 years.

7 (3) A license expires at the end of its term, unless the license is
8 renewed for a term as provided by the Board.

9 (b) At least 1 month before the license expires, the Board shall send to the
10 licensee, by first–class mail to the last known address of the licensee:

11 (1) A renewal notice that states:

12 (i) The date on which the current license expires;

13 (ii) The date by which the renewal application must be received
14 by the Board for the renewal to be issued and mailed before the license expires; and

15 (iii) The amount of the renewal fee; and

16 (2) A blank panel data sheet supplied by the Health Care Alternative
17 Dispute Resolution Office.

18 (c) Before the license expires, the licensee periodically may renew it for an
19 additional term, if the licensee:

20 (1) Otherwise is entitled to be licensed;

21 (2) Pays to the Board a renewal fee set by the Board; and

22 (3) Submits to the Board:

23 (i) A renewal application on the form that the Board requires;
24 and

25 (ii) Satisfactory evidence of compliance with any continuing
26 education requirements set under this section for license renewal.

27 (d) (1) In addition to any other qualifications and requirements
28 established by the Board, the Board may establish continuing education requirements
29 as a condition to the renewal of licenses under this section.

1 (2) In establishing these requirements, the Board shall evaluate
2 existing methods, devices, and programs in use among the various medical specialties
3 and other recognized medical groups.

4 (3) The Board may not establish or enforce these requirements if they
5 would so reduce the number of physicians in a community as to jeopardize the
6 availability of adequate medical care in that community.

7 (4) The Board may impose a civil penalty of up to \$100 per continuing
8 medical education credit in lieu of a sanction under § 14-404 of this title, for a first
9 offense, for the failure of a licensee to obtain the continuing medical education credits
10 required by the Board.

11 (e) The Board shall renew the license of each licensee who meets the
12 requirements of this section.

13 (f) (1) Each licensee shall notify the secretary of the Board in writing of
14 any change in the licensee's name or address within 60 days after the change.

15 (2) If a licensee fails to notify the secretary of the Board within the
16 time required under this section, the licensee is subject to an administrative penalty of
17 \$100.

18 (g) (1) ~~EACH LICENSEE PHYSICIAN WHO IS SUBJECT TO § 14-312.1~~
19 ~~OF THIS SUBTITLE SHALL PROVIDE THE SECRETARY OF THE BOARD WITH~~
20 ~~PROOF OF CERTIFICATION VERIFICATION OR OTHER DOCUMENTATION~~
21 ~~APPROVED BY THE BOARD THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR~~
22 ~~COVERAGE REQUIRED BY § 14-312.1 OF THIS SUBTITLE WITHIN 30 DAYS OF~~
23 ~~OBTAINING OR RENEWING THE INSURANCE;~~

24 (I) ON THE PHYSICIAN'S APPLICATION FOR AN INITIAL
25 LICENSE UNDER § 14-309 OF THIS SUBTITLE AND FOR RENEWAL OR
26 REINSTATEMENT OF A LICENSE UNDER THIS SECTION AND § 14-317 OF THIS
27 SUBTITLE; AND

28 (II) AT ANY OTHER TIME ON REQUEST OF THE BOARD.

29 (2) IF A LICENSEE FAILS TO SUBMIT ~~PROOF CERTIFICATION OF~~
30 ~~MAINTENANCE VERIFICATION OR OTHER DOCUMENTATION APPROVED BY THE~~
31 ~~BOARD OF INSURANCE OR COVERAGE TO THE SECRETARY OF THE BOARD~~
32 ~~WITHIN THE TIME AS REQUIRED UNDER PARAGRAPH (I) (1) OF THIS SECTION~~
33 ~~SUBSECTION, THE BOARD, AFTER PROVIDING SHALL PROVIDE THE LICENSEE~~
34 ~~WITH NOTICE, SHALL SUSPEND, REVOKE, OR DENY THE LICENSE OF THE~~
35 ~~LICENSEE AND THE LICENSEE SHALL BE SUBJECT TO DISCIPLINE BY THE BOARD~~
36 UNDER §§ 14-404 AND 14-405.1 OF THIS TITLE.

1 **(3) IN ACCORDANCE WITH GUIDELINES ADOPTED BY THE BOARD,**
 2 **THE BOARD MAY ENFORCE THIS SUBSECTION BY RANDOMLY AUDITING A**
 3 **PORTION OF THE LICENSEES SUBJECT TO § 14-312.1 OF THIS SUBTITLE TO**
 4 **DETERMINE COMPLIANCE WITH THAT SECTION.**

5 **(4) IN ADDITION TO ANY OTHER AVAILABLE PENALTY, AN**
 6 **APPLICANT FOR AN INITIAL LICENSE OR FOR RENEWAL OR REINSTATEMENT OF**
 7 **A LICENSE WHO PROVIDES FALSE ~~CERTIFICATION~~ VERIFICATION OR**
 8 **DOCUMENTATION OF INSURANCE OR COVERAGE IF REQUIRED FOR THE**
 9 **APPLICANT UNDER § 14-312.1 OF THIS SUBTITLE SHALL BE SUBJECT TO**
 10 **DISCIPLINE BY THE BOARD UNDER §§ 14-404 AND 14-405.1 OF THIS TITLE.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 12 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.