

HOUSE BILL 1275

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9lr2850
CF SB 956

By: ~~Delegate Nathan Pulliam~~ Delegates Nathan Pulliam, Benson, Montgomery, Oaks, Pena-Melnyk, Tarrant, and V. Turner

Introduced and read first time: February 13, 2009

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 3, 2009

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations Boards - Revisions**

3 FOR the purpose of requiring certain health occupations boards to provide certain
4 notification to certain licensees or certificate holders of board vacancies;
5 requiring certain health occupations boards to collect certain racial and ethnic
6 information; requiring that, to the extent practicable, certain members of
7 certain health occupations boards reasonably reflect certain geographic, racial,
8 ethnic, cultural, and gender diversity; requiring certain health occupations
9 boards to collaboratively develop certain training and materials for certain
10 board members; requiring the Secretary of Health and Mental Hygiene to
11 confirm the appointment of certain ~~executive~~ directors; ~~requiring that, to the~~
12 ~~extent practicable, certain health occupations boards limit the scope of~~
13 ~~subpoenas~~; requiring that after certain consultation and to the extent permitted
14 by certain resources, certain health occupations boards to establish certain
15 subcommittees to be responsible for certain investigations, determine whether
16 certain charges should be brought, and participate in certain preadjudication
17 case resolution conferences; prohibiting certain health occupations boards from
18 bringing certain charges based solely on certain complaints the board receives
19 after a certain period of time; requiring certain health occupations boards that
20 are authorized to use peer review to provide certain licensees and certificate
21 holders an opportunity to review and respond to certain preliminary reports;
22 requiring certain health occupations boards to determine a certain means of
23 communication between a peer reviewer and a licensee or certificate holder;
24 prohibiting certain members and counsel from being included in certain
25 meetings; consider certain reports and responses before taking certain action;

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 authorizing certain health occupations boards to establish certain programs to
 2 provide certain training, mentoring, or other remediation for certain licensees or
 3 certificate holders who commit a certain number of standard of care violations;
 4 requiring certain health occupations boards to adopt certain sanctioning
 5 guidelines; requiring certain health occupations boards to post certain ~~final~~
 6 orders for disciplinary action on certain websites; ~~requiring certain health~~
 7 ~~occupations boards to remove certain postings on certain websites under certain~~
 8 ~~circumstances; establishing that certain records may not be used in certain~~
 9 ~~legal proceedings under certain circumstances;~~ requiring the Secretary to
 10 establish certain goals for the timeliness of complaint resolution; requiring the
 11 Secretary to monitor ~~certain~~ the timeliness of complaint resolution for certain
 12 health occupations boards; compliance with certain guidelines and make certain
 13 ~~recommendations on or before a certain date; requiring the Office of the~~
 14 ~~Attorney General to establish certain guidelines concerning certain functions of~~
 15 ~~certain advisors and advocates; requiring the Office of the Attorney General and~~
 16 ~~certain health occupations boards to post certain guidelines or a link to certain~~
 17 ~~guidelines on certain websites; authorizing the Office of the Attorney General to~~
 18 ~~establish a certain pool of advocates and assign the advocates to certain boards~~
 19 ~~in a certain manner; authorizing certain health occupations boards to create~~
 20 ~~certain positions under certain circumstances; providing that the creation of~~
 21 ~~certain positions may not be construed to require certain State General Fund~~
 22 ~~support; requiring certain health occupations boards to collaborate with the~~
 23 ~~Department of Health and Mental Hygiene and the Department of Budget and~~
 24 ~~Management to develop and adopt certain regulations; requiring the~~
 25 ~~Department of Health and Mental Hygiene to submit a certain report to the~~
 26 ~~Department of Budget and Management and the Department of Legislative~~
 27 ~~Services;~~ requiring the Secretary to establish certain guidelines on or before a
 28 certain date; requiring certain health occupations boards to collaborate with the
 29 Office of the Attorney General to make certain information available to the
 30 public concerning certain roles for assistant attorneys general; establishing that
 31 certain departure from sanctioning guidelines, failure to meet certain timeliness
 32 goals, and noncompliance with certain guidelines concerning certain roles for
 33 assistant attorneys general may not be grounds for certain hearings or appeals;
 34 requiring the Secretary and health occupations boards to make certain reports
 35 to certain committees of the General Assembly on or before certain dates;
 36 providing for the construction and the application of this Act; defining certain
 37 terms; and generally relating to revisions for the health occupations boards.

38 BY adding to

39 Article – Health Occupations

40 Section 1-214 through 1-218; 1-601 through ~~1-610~~ 1-609 to be under the new
 41 subtitle “Subtitle 6. General Clarification of the Disciplinary Process”;
 42 ~~1-701 through 1-703 to be under the new subtitle “Subtitle 7. Role of~~
 43 ~~Assistant Attorneys General”;~~ and ~~1-801 and 1-802 to be under the new~~
 44 ~~subtitle “Subtitle 8. Authority to Create Staff Positions”~~

45 Annotated Code of Maryland

46 (2005 Replacement Volume and 2008 Supplement)

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

3 **Article – Health Occupations**

4 **1-214.**

5 **TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO EACH**
6 **HEALTH OCCUPATIONS BOARD AUTHORIZED TO ISSUE A LICENSE OR**
7 **CERTIFICATE UNDER THIS ARTICLE SHALL REASONABLY REFLECT THE**
8 **GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE**
9 **STATE.**

10 **1-215.**

11 **(A) EACH HEALTH OCCUPATIONS BOARD AUTHORIZED TO ISSUE A**
12 **LICENSE OR CERTIFICATE UNDER THIS ARTICLE SHALL NOTIFY ALL LICENSEES**
13 **OR CERTIFICATE HOLDERS OF BOARD VACANCIES.**

14 **(B) A HEALTH OCCUPATIONS BOARD MAY GIVE NOTICE OF A BOARD**
15 **VACANCY BY ELECTRONIC MAIL OR A NOTICE ON THE BOARD’S WEBSITE.**

16 **1-216.**

17 ~~**EACH HEALTH OCCUPATIONS BOARD**~~ **THE HEALTH OCCUPATIONS BOARDS**
18 **AUTHORIZED TO ISSUE A LICENSE OR CERTIFICATE UNDER THIS ARTICLE SHALL**
19 **DEVELOP COLLABORATIVELY A TRAINING PROCESS AND MATERIALS FOR NEW**
20 **BOARD MEMBERS THAT INCLUDE TRAINING IN CULTURAL COMPETENCY.**

21 **1-217.**

22 **THE SECRETARY SHALL CONFIRM THE APPOINTMENT OF EACH**
23 **ADMINISTRATIVE OR EXECUTIVE DIRECTOR TO EACH HEALTH OCCUPATIONS**
24 **BOARD AUTHORIZED TO ISSUE A LICENSE OR CERTIFICATE UNDER THIS**
25 **ARTICLE.**

26 **1-218.**

27 **EACH HEALTH OCCUPATIONS BOARD AUTHORIZED TO ISSUE A LICENSE**
28 **OR CERTIFICATE UNDER THIS ARTICLE SHALL COLLECT RACIAL AND ETHNIC**
29 **INFORMATION ABOUT THE APPLICANT AS PART OF THE BOARD’S LICENSING,**
30 **CERTIFYING, OR RENEWAL PROCESS.**

31 **SUBTITLE 6. GENERAL CLARIFICATION OF THE DISCIPLINARY PROCESS.**

1 **1-601.**

2 IN THIS SUBTITLE, "HEALTH OCCUPATIONS BOARD" MEANS A BOARD
3 AUTHORIZED TO ISSUE A LICENSE OR CERTIFICATE UNDER THIS ARTICLE.

4 ~~1-602.~~

5 ~~TO THE EXTENT PRACTICABLE, A HEALTH OCCUPATIONS BOARD~~
6 ~~AUTHORIZED TO ISSUE A SUBPOENA UNDER THIS ARTICLE SHALL LIMIT THE~~
7 ~~SCOPE OF A SUBPOENA TO THE FACTS OF THE COMPLAINT BEING~~
8 ~~INVESTIGATED.~~

9 ~~1-603.~~ 1-602.

10 (A) EACH AFTER CONSULTATION WITH THE SECRETARY AND TO THE
11 EXTENT PERMITTED BY EXISTING ADMINISTRATIVE AND FISCAL RESOURCES,
12 EACH HEALTH OCCUPATIONS BOARD SHALL ESTABLISH A DISCIPLINARY
13 SUBCOMMITTEE.

14 (B) A TO THE EXTENT DEEMED PRACTICABLE BY EACH BOARD, A
15 DISCIPLINARY SUBCOMMITTEE SHALL:

16 (1) BE RESPONSIBLE FOR THE INVESTIGATION OF COMPLAINTS;

17 (2) DETERMINE WHETHER THE HEALTH OCCUPATIONS BOARD
18 SHOULD BRING CHARGES AGAINST A LICENSEE OR CERTIFICATE HOLDER; AND

19 (3) PARTICIPATE IN PREADJUDICATION CASE RESOLUTION
20 CONFERENCES RESULTING FROM THE CHARGES.

21 ~~(C) A MEMBER OF A DISCIPLINARY SUBCOMMITTEE MAY NOT~~
22 ~~PARTICIPATE IN ANY FINAL DECISION OR SANCTIONING FOLLOWING A~~
23 ~~CONTESTED CASE REGARDING THE CHARGES.~~

24 ~~1-604.~~ 1-603.

25 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
26 HEALTH OCCUPATIONS BOARD MAY NOT BRING CHARGES AGAINST A LICENSEE
27 OR CERTIFICATE HOLDER IF THE BOARD RECEIVES THE INITIAL COMPLAINT
28 BASED SOLELY ON EVENTS CONTAINED IN A COMPLAINT THE BOARD RECEIVES
29 MORE THAN 6 YEARS AFTER:

30 (1) THE DAY THE COMPLAINANT ACTUALLY DISCOVERED THE
31 FACTS THAT FORM THE BASIS OF THE COMPLAINT; OR

1 (2) THE DAY WHEN A REASONABLE PERSON EXERCISING DUE
2 DILIGENCE SHOULD HAVE DISCOVERED THE FACTS THAT FORM THE BASIS OF
3 THE COMPLAINT.

4 (B) THIS SECTION DOES NOT APPLY TO A COMPLAINT BASED ON:

5 (1) CRIMINAL CONVICTIONS OR SEXUAL MISCONDUCT OR OTHER
6 SIMILAR BOUNDARY VIOLATIONS;

7 (2) RECIPROCAL DISCIPLINE MATTERS;

8 (3) ONGOING SUBSTANCE ABUSE;

9 (4) FRAUDULENT CONCEALMENT OF MATERIAL INFORMATION;

10 (5) ACTS THAT WERE PART OF A PATIENT’S REPRESSED MEMORY;
11 OR

12 (6) ACTS THAT OCCUR WHILE A PATIENT IS A MINOR.

13 ~~1-605. 1-604.~~

14 ~~(A) EACH HEALTH OCCUPATIONS BOARD THAT USES PEER REVIEW IN
15 STANDARD OF CARE INVESTIGATIONS SHALL PROVIDE THE LICENSEE OR
16 CERTIFICATE HOLDER UNDER INVESTIGATION THE OPPORTUNITY TO REVIEW A
17 PRELIMINARY REPORT AND RESPOND TO QUESTIONS OR CONCERNS EXPRESSED
18 BY THE PEER REVIEWER BEFORE THE FINAL PEER REVIEW REPORT IS SENT TO
19 THE HEALTH OCCUPATIONS BOARD.~~

20 ~~(B) THE MEANS OF COMMUNICATION BETWEEN A PEER REVIEWER AND
21 LICENSEE OR CERTIFICATE HOLDER UNDER THIS SECTION SHALL BE
22 DETERMINED BY EACH HEALTH OCCUPATIONS BOARD AND MAY INCLUDE:~~

23 ~~(1) AN IN-PERSON MEETING;~~

24 ~~(2) A TELEPHONE CONFERENCE; OR~~

25 ~~(3) WRITTEN DOCUMENTATION.~~

26 ~~(C) A MEETING CONDUCTED UNDER THIS SECTION MAY NOT INCLUDE
27 MEMBERS OF THE HEALTH OCCUPATIONS BOARD OR COUNSEL FOR THE
28 LICENSEE OR CERTIFICATE HOLDER.~~

29 (A) IF A STATUTE AUTHORIZES A HEALTH OCCUPATIONS BOARD TO USE
30 A SYSTEM OF PEER REVIEW IN STANDARD OF CARE CASES AND THE PEER

1 REVIEWER OR PEER REVIEWERS DETERMINE THAT THERE HAS BEEN A
2 VIOLATION OF A STANDARD OF CARE, THE BOARD SHALL PROVIDE THE
3 LICENSEE OR CERTIFICATE HOLDER UNDER INVESTIGATION WITH AN
4 OPPORTUNITY TO REVIEW THE FINAL PEER REVIEW REPORT AND PROVIDE THE
5 BOARD WITH A WRITTEN RESPONSE WITHIN 10 BUSINESS DAYS AFTER THE
6 REPORT WAS SENT TO THE LICENSEE OR CERTIFICATE HOLDER.

7 (B) IF A HEALTH OCCUPATIONS BOARD RECEIVES A WRITTEN
8 RESPONSE TO A FINAL PEER REVIEW REPORT, THE BOARD SHALL CONSIDER
9 BOTH THE REPORT AND RESPONSE BEFORE TAKING ANY ACTION.

10 ~~1-606.~~ 1-605.

11 (A) AS AN ALTERNATIVE TO A FORMAL HEARING, EACH HEALTH
12 OCCUPATIONS BOARD MAY ESTABLISH A PROGRAM FOR LICENSEES OR
13 CERTIFICATE HOLDERS WHO COMMIT A SINGLE STANDARD OF CARE VIOLATION.

14 (B) A PROGRAM ESTABLISHED UNDER THIS SECTION SHALL PROVIDE
15 TRAINING, MENTORING, OR OTHER FORMS OF REMEDIATION AS DETERMINED
16 BY THE HEALTH OCCUPATIONS BOARD.

17 ~~1-607.~~ 1-606.

18 (A) EACH HEALTH OCCUPATIONS BOARD SHALL ADOPT SPECIFIC
19 SANCTIONING GUIDELINES, INCLUDING:

20 (1) A RANGE OF SANCTIONS THAT IS BASED ON HISTORICAL DATA
21 OR A NORMATIVE PROCESS FOR EACH TYPE OF VIOLATION; AND

22 (2) A LIST OF MITIGATING AND AGGRAVATING CIRCUMSTANCES
23 THAT MAY BE USED TO DECIDE IF A SANCTION FALLS WITHIN OR OUTSIDE THE
24 ESTABLISHED RANGE OF SANCTIONS.

25 (B) SANCTIONING GUIDELINES ADOPTED UNDER THIS SECTION SHALL:

26 (1) CONFORM TO A GENERAL FRAMEWORK OR INCORPORATE A
27 COMMON SET OF ELEMENTS; AND

28 (2) BE USED AS A GUIDE FOR SANCTIONING LICENSEES AND
29 CERTIFICATE HOLDERS IN FORMAL AND INFORMAL PROCEEDINGS.

30 (C) (1) TO THE EXTENT A HEALTH OCCUPATIONS BOARD DEPARTS
31 FROM THE SANCTIONING GUIDELINES ADOPTED UNDER THIS SECTION, THE
32 BOARD SHALL STATE ITS REASONS ~~IN DETAIL.~~

1 (2) A DEPARTURE FROM THE GUIDELINES ALONE IS NOT
2 GROUNDS FOR ANY HEARING OR APPEAL OF ANY BOARD ACTION.

3 ~~1-608. 1-607.~~

4 ~~(A) ON OR AFTER OCTOBER 1, 2009, EACH~~ EACH HEALTH
5 OCCUPATIONS BOARD SHALL POST ON THE BOARD'S WEBSITE EACH FINAL,
6 PUBLIC ORDER FOR A DISCIPLINARY SANCTION ISSUED TO A LICENSEE OR
7 CERTIFICATE HOLDER ~~ON THE BOARD'S WEBSITE.~~

8 ~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
9 ~~SUBSECTION, A HEALTH OCCUPATIONS BOARD SHALL REMOVE A POSTING IF~~
10 ~~WITHIN 6 YEARS AFTER THE DATE OF THE FINAL ORDER, THE LICENSEE OR~~
11 ~~CERTIFICATE HOLDER CITED IN THE POSTING;~~

12 ~~(I) HAS COMPLIED WITH ALL OF THE CONDITIONS IN THE~~
13 ~~FINAL ORDER;~~

14 ~~(II) HAS NOT BEEN SUBJECT TO ANY FURTHER~~
15 ~~DISCIPLINARY ACTION; AND~~

16 ~~(III) IS PRACTICING IN FULL COMPLIANCE WITH THE~~
17 ~~APPLICABLE STANDARD OF CARE.~~

18 ~~(2) THIS SECTION DOES NOT APPLY TO A FINAL ORDER~~
19 ~~CONCERNING A CRIMINAL CONVICTION OR SEXUAL MISCONDUCT OR OTHER~~
20 ~~SIMILAR BOUNDARY VIOLATION.~~

21 ~~(3) WHEN A HEALTH OCCUPATIONS BOARD REMOVES A POSTING~~
22 ~~UNDER THIS SUBSECTION, THE BOARD SHALL NOTIFY THE NATIONAL~~
23 ~~PRACTITIONER DATA BANK.~~

24 ~~1-609.~~

25 ~~(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, NO~~
26 ~~RECORDS RELATED TO A DISCIPLINARY SANCTION MAY BE CONSIDERED IN A~~
27 ~~LEGAL PROCEEDING OTHER THAN A SUBSEQUENT DISCIPLINARY MATTER IF~~
28 ~~WITHIN 6 YEARS AFTER THE DATE OF A FINAL ORDER, THE LICENSEE OR~~
29 ~~CERTIFICATE HOLDER CITED IN THE POSTING;~~

30 ~~(1) HAS COMPLIED WITH ALL OF THE CONDITIONS IN THE FINAL~~
31 ~~ORDER;~~

32 ~~(2) HAS NOT BEEN SUBJECT TO ANY FURTHER DISCIPLINARY~~
33 ~~ACTION; AND~~

1 ~~(3) IS PRACTICING IN FULL COMPLIANCE WITH THE APPLICABLE~~
2 ~~STANDARD OF CARE.~~

3 ~~(B) THIS SECTION DOES NOT APPLY TO A FINAL ORDER CONCERNING A~~
4 ~~CRIMINAL CONVICTION OR SEXUAL MISCONDUCT OR OTHER SIMILAR~~
5 ~~BOUNDARY VIOLATION.~~

6 ~~1-610.~~

7 ~~(A) THE SECRETARY SHALL ESTABLISH GOALS FOR THE TIMELINESS OF~~
8 ~~COMPLAINT RESOLUTION, INCLUDING:~~

9 ~~(1) THE COMPLETION OF AN INVESTIGATION AND~~
10 ~~DETERMINATION OF WHETHER TO CHARGE WITHIN 18 MONTHS AFTER THE~~
11 ~~DATE THE COMPLAINT IS FILED WITH THE BOARD;~~

12 ~~(2) THE ISSUANCE OF CHARGES WITHIN 90 DAYS AFTER A~~
13 ~~DETERMINATION TO CHARGE IS MADE;~~

14 ~~(3) THE SCHEDULING OF A HEARING BETWEEN 90 DAYS AND 6~~
15 ~~MONTHS AFTER THE ISSUANCE OF CHARGES; AND~~

16 ~~(4) UNLESS GOOD CAUSE IS SHOWN, A FINAL DECISION BY THE~~
17 ~~HEALTH OCCUPATIONS BOARD WITHIN THE LATER OF 90 DAYS AFTER:~~

18 ~~(I) RECEIPT OF AN OPINION FROM THE OFFICE OF~~
19 ~~ADMINISTRATIVE HEARINGS; OR~~

20 ~~(H) THE FINAL DAY OF ANY HEARING BEFORE THE HEALTH~~
21 ~~OCCUPATIONS BOARD.~~

22 ~~(B) (1) THE SECRETARY SHALL MONITOR THE HEALTH~~
23 ~~OCCUPATIONS BOARDS' COMPLIANCE WITH THE GUIDELINES ESTABLISHED IN~~
24 ~~ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION AND MAKE~~
25 ~~RECOMMENDATIONS ON UNIFORM TIME FRAMES FOR ALL OF THE BOARDS, A~~
26 ~~GROUP OF BOARDS, OR A SPECIFIC BOARD.~~

27 ~~(2) ON OR BEFORE OCTOBER 1, 2011, THE SECRETARY SHALL~~
28 ~~REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS~~
29 ~~COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS~~
30 ~~COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT~~
31 ~~ARTICLE, ON THE RECOMMENDATIONS REQUIRED BY PARAGRAPH (1) OF THIS~~
32 ~~SUBSECTION.~~

1 **1-608.**

2 **(A) THE SECRETARY SHALL MONITOR THE TIMELINESS OF COMPLAINT**
3 **RESOLUTION FOR EACH HEALTH OCCUPATIONS BOARD.**

4 **(B) (1) ON OR BEFORE OCTOBER 1, 2011, THE SECRETARY SHALL**
5 **ESTABLISH GOALS FOR THE TIMELINESS OF COMPLAINT RESOLUTION FOR ALL**
6 **OF THE BOARDS, A GROUP OF BOARDS, OR A SPECIFIC BOARD, INCLUDING:**

7 **(I) AFTER A COMPLAINT IS FILED WITH A BOARD, A GOAL**
8 **FOR THE LENGTH OF TIME A BOARD HAS TO COMPLETE AN INVESTIGATION AND**
9 **DETERMINE WHETHER TO BRING CHARGES;**

10 **(II) AFTER A BOARD MAKES A DECISION TO CHARGE, A**
11 **GOAL FOR THE LENGTH OF TIME A BOARD HAS TO ISSUE CHARGES;**

12 **(III) AFTER A BOARD ISSUES CHARGES, A GOAL FOR THE**
13 **LENGTH OF TIME A BOARD HAS TO SCHEDULE A HEARING; AND**

14 **(IV) AFTER THE DATE OF AN OPINION FROM THE OFFICE OF**
15 **ADMINISTRATIVE HEARINGS, OR THE FINAL DAY OF ANY HEARING, A GOAL FOR**
16 **THE LENGTH OF TIME A BOARD HAS TO ISSUE A FINAL DECISION.**

17 **(2) WHEN DETERMINING THE TIME FRAMES FOR COMPLAINT**
18 **RESOLUTION, THE SECRETARY SHALL CONSIDER:**

19 **(I) THE ADMINISTRATIVE AND FISCAL CONSTRAINTS OF**
20 **EACH HEALTH OCCUPATIONS BOARD; AND**

21 **(II) THE RECOMMENDATIONS FROM THE TASK FORCE ON**
22 **DISCIPLINE OF HEALTH CARE PROFESSIONALS AND IMPROVED PATIENT**
23 **CARE.**

24 **(3) THE GOALS ESTABLISHED BY THE SECRETARY IN**
25 **ACCORDANCE WITH THIS SECTION ARE NONBINDING AND FAILURE TO MEET**
26 **THE GOALS MAY NOT BE USED AS GROUNDS FOR ANY HEARING OR APPEAL OF**
27 **ANY BOARD ACTION.**

28 **(C) ON OR BEFORE OCTOBER 1, 2011, THE SECRETARY OF HEALTH**
29 **AND MENTAL HYGIENE SHALL, IN ACCORDANCE WITH § 2-1246 OF THE STATE**
30 **GOVERNMENT ARTICLE, REPORT TO THE SENATE EDUCATION, HEALTH, AND**
31 **ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE HEALTH AND**
32 **GOVERNMENT OPERATIONS COMMITTEE ON THE GOALS FOR THE TIMELINESS**
33 **OF COMPLAINT RESOLUTION ESTABLISHED UNDER THIS SECTION.**

1 **1-609.**

2 **(A) EACH HEALTH OCCUPATIONS BOARD SHALL COLLABORATE WITH**
3 **THE OFFICE OF THE ATTORNEY GENERAL TO MAKE GUIDELINES AVAILABLE TO**
4 **THE PUBLIC CONCERNING THE SEPARATE ROLES FOR ASSISTANT ATTORNEYS**
5 **GENERAL AS COUNSEL AND PROSECUTOR FOR THE BOARD.**

6 **(B) NONCOMPLIANCE WITH THE GUIDELINES MADE AVAILABLE UNDER**
7 **THIS SECTION MAY NOT BE USED AS GROUNDS FOR ANY HEARING OR APPEAL OF**
8 **ANY BOARD ACTION.**

9 **SUBTITLE 7. ROLE OF ASSISTANT ATTORNEYS GENERAL.**10 **1-701.**

11 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
12 **INDICATED.**

13 **(B) "ADJUDICATORY PROCEEDING" MEANS ANY PROCEEDING BY A**
14 **HEALTH OCCUPATIONS BOARD ESTABLISHED TO DETERMINE A SPECIFIC**
15 **PARTY'S RIGHTS, DUTIES, STATUTORY ENTITLEMENT, OR PRIVILEGES, BY USE**
16 **OF AN ADJUDICATORY HEARING REGARDLESS OF WHETHER THE PROCEEDING**
17 **IS A CONTESTED CASE UNDER THE MARYLAND ADMINISTRATIVE PROCEDURE**
18 **ACT.**

19 **(C) "ADVISOR" MEANS AN ASSISTANT ATTORNEY GENERAL WHO**
20 **RENDERS LEGAL ADVICE TO A HEALTH OCCUPATIONS BOARD REGARDING ANY**
21 **MATTER PERTAINING TO A SPECIFIC CASE CONSIDERED BY THAT BOARD.**

22 **(D) "ADVOCATE" MEANS AN ASSISTANT ATTORNEY GENERAL WHO**
23 **PRESENTS OR PROSECUTES A CASE BEFORE A HEALTH OCCUPATIONS BOARD OR**
24 **WHO ADVISES SOMEONE WHO PRESENTS OR PROSECUTES A CASE BEFORE A**
25 **BOARD.**

26 **(E) "HEALTH OCCUPATIONS BOARD" MEANS A BOARD AUTHORIZED TO**
27 **ISSUE A LICENSE OR CERTIFICATE UNDER THIS ARTICLE.**

28 **1-702.**

29 **(A) THE OFFICE OF THE ATTORNEY GENERAL SHALL ESTABLISH**
30 **GUIDELINES THAT SEPARATE THE FUNCTIONS OF THE ADVISOR AND THE**
31 **ADVOCATE IN ADJUDICATORY PROCEEDINGS.**

1 ~~(B) THE OFFICE OF THE ATTORNEY GENERAL SHALL POST ON THE~~
2 ~~OFFICE OF THE ATTORNEY GENERAL'S WEBSITE THE GUIDELINES~~
3 ~~ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.~~

4 ~~(C) EACH HEALTH OCCUPATIONS BOARD SHALL POST ON THE BOARD'S~~
5 ~~WEBSITE THE GUIDELINES ESTABLISHED UNDER SUBSECTION (A) OF THIS~~
6 ~~SECTION OR A LINK TO THE GUIDELINES ON THE OFFICE OF THE ATTORNEY~~
7 ~~GENERAL'S WEBSITE.~~

8 ~~1-703.~~

9 ~~(A) NOTWITHSTANDING ANY OTHER LAW, THE OFFICE OF THE~~
10 ~~ATTORNEY GENERAL MAY:~~

11 ~~(1) ESTABLISH A POOL OF ALL ADVOCATES FOR THE HEALTH~~
12 ~~OCCUPATIONS BOARDS; AND~~

13 ~~(2) ASSIGN AN ADVOCATE TO A HEALTH OCCUPATIONS BOARD ON~~
14 ~~A CASE-BY-CASE BASIS.~~

15 ~~(B) THE OFFICE OF THE ATTORNEY GENERAL MAY MAKE~~
16 ~~ASSIGNMENTS UNDER THIS SECTION BASED ON THE RESOURCES ALLOCATED BY~~
17 ~~EACH HEALTH OCCUPATIONS BOARD.~~

18 ~~SUBTITLE 8. AUTHORITY TO CREATE STAFF POSITIONS.~~

19 ~~1-801.~~

20 ~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EACH HEALTH~~
21 ~~OCCUPATIONS BOARD MAY CREATE ANY POSITION TO THE EXTENT THAT THE~~
22 ~~COST OF THE POSITION, INCLUDING ANY FRINGE BENEFIT COSTS, IS FUNDED~~
23 ~~FROM EXISTING FUNDS.~~

24 ~~(B) NOTHING IN THIS SECTION MAY BE CONSTRUED TO REQUIRE ANY~~
25 ~~ADDITIONAL STATE GENERAL FUND SUPPORT.~~

26 ~~1-802.~~

27 ~~(A) EACH BOARD SHALL COLLABORATE WITH THE SECRETARY AND THE~~
28 ~~DEPARTMENT OF BUDGET AND MANAGEMENT TO DEVELOP AND ADOPT~~
29 ~~REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

30 ~~(B) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE DEPARTMENT~~
31 ~~SHALL SUBMIT AN ANNUAL POSITION ACCOUNTABILITY REPORT TO THE~~
32 ~~DEPARTMENT OF BUDGET AND MANAGEMENT AND THE DEPARTMENT OF~~

1 ~~LEGISLATIVE SERVICES THAT REPORTS THE TOTAL NUMBER OF POSITIONS~~
 2 ~~CREATED AND THE COST AND THE FUNDING SOURCE FOR EACH POSITION~~
 3 ~~CREATED BY EACH HEALTH OCCUPATIONS BOARD IN THE PREVIOUS FISCAL~~
 4 ~~YEAR.~~

5 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December
 6 31, 2010, each health occupations board shall report to the Senate Education, Health,
 7 and Environmental Affairs Committee and the House Health and Government
 8 Operations Committee, in accordance with § 2-1246 of the State Government Article,
 9 on:

10 (1) its success in meeting the goals and requirements of this Act;

11 (2) recommendations, in keeping with the language from the Report of
 12 the Task Force on Discipline of Health Care Professionals and Improved Patient Care,
 13 for providing, under appropriate circumstances, a procedure through which a licensee
 14 may petition to have a final public order determined to be of no further legal relevancy
 15 or expunged from the board's public record; and

16 (3) ways in which separation of the board's disciplinary functions can
 17 be further achieved.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be
 19 construed to diminish, alter, or enhance the existing authority of any party to exercise
 20 any responsibility in the appointment of membership to any health occupations board,
 21 as provided by the Health Occupations Article.

22 SECTION 4. AND BE IT FURTHER ENACTED, That, except as otherwise
 23 provided by law, this Act shall be construed to apply only prospectively and may not be
 24 applied or interpreted to have any effect on or application to any complaint made to a
 25 health occupations board before the effective date of this Act.

26 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take
 27 effect October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.