# HOUSE BILL 870

#### J2, J3, J1

#### By: Delegate Reznik

Introduced and read first time: February 10, 2010 Assigned to: Health and Government Operations

### A BILL ENTITLED

#### 1 AN ACT concerning

# State Board of Physicians – Facilities for Performing Elective Cosmetic Surgical Procedures

- FOR the purpose of authorizing the State Board of Physicians to discipline certain
  licensees that perform elective cosmetic surgical procedures in facilities that are
  not accredited by certain associations or organizations or certified to participate
  in a certain program; defining certain terms; and generally relating to the State
  Board of Physicians and facilities for performing elective cosmetic surgical
  procedures.
- 10 BY repealing and reenacting, with amendments,
- 11 Article Health Occupations
- 12 Section 14–101 and 14–404(a)(39) and (40)
- 13 Annotated Code of Maryland
- 14 (2009 Replacement Volume)
- 15 BY adding to
- 16 Article Health Occupations
- 17 Section 14–404(a)(41)
- 18 Annotated Code of Maryland
- 19 (2009 Replacement Volume)
- 20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 21 MARYLAND, That the Laws of Maryland read as follows:
- 22

Article – Health Occupations

- 23 14–101.
- 24 (a) In this title the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. 0lr2063



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1	(b) "Board" means the State Board of Physicians.				
$\frac{2}{3}$	(c) "Civil action" includes a health care malpractice claim under Title 3, Subtitle 2A of the Courts Article.				
$4 \\ 5 \\ 6$	(D) (1) "ELECTIVE COSMETIC SURGICAL PROCEDURE" MEANS THE USE OF SURGICAL SERVICES TO RESHAPE THE STRUCTURE OF A HUMAN BODY IN ORDER TO CHANGE THE APPEARANCE OF AN INDIVIDUAL.				
7 8	(2) INCLUDE:	"ELECTIVE COSMETIC SURGICAL PROCEDURE" DOES NOT			
9 10	(I) A PROCEDURE DONE UNDER LOCAL ANESTHESIA OR MILD SEDATION; OR				
11 12	CENTIMETERS OF	(II) LIPOSUCTION THAT REMOVES LESS THAN 500 CUBIC FAT.			
$\begin{array}{c} 13\\14\end{array}$	[(d)] (E) of Maryland.	"Faculty" means the Medical and Chirurgical Faculty of the State			
$\begin{array}{c} 15\\ 16\end{array}$	[(e)] <b>(F)</b> General Article.				
17 18	[(f)] (G) "License" means, unless the context requires otherwise, a license issued by the Board to practice medicine.				
19 20 21	[(g)] (H) "Licensed physician" means, unless the context requires otherwise, a physician, including a doctor of osteopathy, who is licensed by the Board to practice medicine.				
$22 \\ 23 \\ 24$	[(h)] (I) "Licensee" means an individual to whom a license is issued, including an individual practicing medicine within or as a professional corporation or professional association.				
25	(J) "MIL	D SEDATION" MEANS A DRUG–INDUCED STATE DURING WHICH:			
26	(1)	A PATIENT IS ABLE TO RESPOND TO VERBAL COMMANDS;			
27 28	(2) FUNCTIONS ARE 1	A PATIENT'S VENTILATORY AND CARDIOVASCULAR NOT AFFECTED; AND			
29 30	(3) BE IMPAIRED.	A PATIENT'S COGNITIVE FUNCTION AND COORDINATION MAY			

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$     \begin{array}{c}       1 \\       2 \\       3 \\       4     \end{array} $	[(i)] (K) "Perform acupuncture" means to stimulate a certain point or points on or near the surface of the human body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of ailments or conditions of the body.				
5	[(j)] (L)	"Phys	sician" means an individual who practices medicine.		
	title that evaluate professionals regu	rofit en es and ulated nabilita	sician Rehabilitation Program" means the program of the ntity with which the Board contracts under § 14-401(g) of this provides assistance to impaired physicians and other health by the Board who are directed by the Board to receive ation for alcoholism, chemical dependency, or other physical, ditions.		
$\begin{array}{c} 12\\ 13 \end{array}$	[(l)] (N) compensation, in 1	(1) nedica	"Practice medicine" means to engage, with or without l:		
14		(i)	Diagnosis;		
15		(ii)	Healing;		
16		(iii)	Treatment; or		
17		(iv)	Surgery.		
18 19	(2) "Practice medicine" includes doing, undertaking, professing to do, and attempting any of the following:				
$20 \\ 21 \\ 22$	removing any ph individual:	(i) ysical,	Diagnosing, healing, treating, preventing, prescribing for, or mental, or emotional ailment or supposed ailment of an		
$\begin{array}{c} 23\\ 24 \end{array}$	is exercised or inv	oked b	1. By physical, mental, emotional, or other process that y the practitioner, the patient, or both; or		
25			2. By appliance, test, drug, operation, or treatment;		
26		(ii)	Ending of a human pregnancy; and		
$\begin{array}{c} 27\\ 28 \end{array}$	title.	(iii)	Performing acupuncture as provided under § 14–504 of this		
29	(3)	"Prac	tice medicine" does not include:		
30		(i)	Selling any nonprescription drug or medicine;		
31		(ii)	Practicing as an optician; or		

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Performing a massage or other manipulation by hand, but

3 "Related institution" has the meaning stated in § 19-301 of the [(m)] (0)4 Health – General Article.  $\mathbf{5}$ 14 - 404.Subject to the hearing provisions of § 14–405 of this subtitle, the Board, 6 (a) 7on the affirmative vote of a majority of the quorum, may reprimand any licensee, place 8 any licensee on probation, or suspend or revoke a license if the licensee: 9 Intentionally misrepresents credentials for the purpose (39)of 10 testifying or rendering an expert opinion in hearings or proceedings before the Board or those otherwise delegated to the Office of Administrative Hearings; [or] 11 12Fails to keep adequate medical records as determined by (40)13appropriate peer review; OR 14 (41) PERFORMS AN ELECTIVE COSMETIC SURGICAL PROCEDURE 15IN A FACILITY THAT IS NOT: **(I)** 16 **ACCREDITED BY:** Тне 171. AMERICAN ASSOCIATION FOR **ACCREDITATION OF AMBULATORY SURGICAL FACILITIES:** 18 19 2. Тне ACCREDITATION ASSOCIATION FOR 20**AMBULATORY HEALTH CARE: OR** 213. THE JOINT COMMISSION ON THE 22**ACCREDITATION OF HEALTH CARE ORGANIZATIONS; OR** 23**(II)** CERTIFIED TO PARTICIPATE IN THE **MEDICARE** PROGRAM, AS ENACTED BY TITLE XVIII OF THE SOCIAL SECURITY ACT. 2425SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 26October 1, 2010.

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by no other means.

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