

HOUSE BILL 870

J2, J3, J1

0lr2063

By: ~~Delegate Reznik~~ Delegates Reznik, Kach, Kipke, Montgomery, and V. Turner

Introduced and read first time: February 10, 2010

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2010

CHAPTER _____

1 AN ACT concerning

2 **State Board of Physicians – Offices or Facilities for Performing ~~Elective~~**
3 **Cosmetic Surgical Procedures**

4 FOR the purpose of authorizing the State Board of Physicians to discipline certain
5 licensees that perform ~~elective~~ cosmetic surgical procedures in offices or
6 facilities that are not accredited by certain associations or organizations or
7 certified to participate in a certain program; defining certain terms; and
8 generally relating to the State Board of Physicians and offices or facilities for
9 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:

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 **Article – Health Occupations**

2 14–101.

3 (a) In this title the following words have the meanings indicated.

4 (b) “Board” means the State Board of Physicians.

5 (c) “Civil action” includes a health care malpractice claim under Title 3,
6 Subtitle 2A of the Courts Article.7 **(D) (1) “~~ELECTIVE COSMETIC~~ COSMETIC SURGICAL PROCEDURE”**
8 **MEANS THE USE OF SURGICAL SERVICES TO RESHAPE THE STRUCTURE OF A**
9 **HUMAN BODY IN ORDER TO CHANGE THE APPEARANCE OF AN INDIVIDUAL.**10 **(2) “~~ELECTIVE COSMETIC~~ COSMETIC SURGICAL PROCEDURE”**
11 **DOES NOT INCLUDE:**12 **(I) A PROCEDURE DONE UNDER LOCAL ANESTHESIA OR**
13 **MILD SEDATION; OR**14 **(II) LIPOSUCTION THAT REMOVES LESS THAN ~~500~~ 1,000**
15 **CUBIC CENTIMETERS OF ~~FAT~~ ASPIRATE.**16 **[(d)] (E)** “Faculty” means the Medical and Chirurgical Faculty of the State
17 of Maryland.18 **[(e)] (F)** “Hospital” has the meaning stated in § 19–301 of the Health –
19 General Article.20 **[(f)] (G)** “License” means, unless the context requires otherwise, a license
21 issued by the Board to practice medicine.22 **[(g)] (H)** “Licensed physician” means, unless the context requires otherwise,
23 a physician, including a doctor of osteopathy, who is licensed by the Board to practice
24 medicine.25 **[(h)] (I)** “Licensee” means an individual to whom a license is issued,
26 including an individual practicing medicine within or as a professional corporation or
27 professional association.28 **(J) “MILD SEDATION” MEANS A DRUG-INDUCED STATE DURING WHICH:**29 **(1) A PATIENT IS ABLE TO RESPOND TO VERBAL COMMANDS;**

1 **(2) A PATIENT’S VENTILATORY AND CARDIOVASCULAR**
2 **FUNCTIONS ARE NOT AFFECTED; AND**

3 **(3) A PATIENT’S COGNITIVE FUNCTION AND COORDINATION MAY**
4 **BE IMPAIRED.**

5 **[(i)] (K)** “Perform acupuncture” means to stimulate a certain point or points
6 on or near the surface of the human body by the insertion of needles to prevent or
7 modify the perception of pain or to normalize physiological functions, including pain
8 control, for the treatment of ailments or conditions of the body.

9 **[(j)] (L)** “Physician” means an individual who practices medicine.

10 **[(k)] (M)** “Physician Rehabilitation Program” means the program of the
11 Board or the nonprofit entity with which the Board contracts under § 14–401(g) of this
12 title that evaluates and provides assistance to impaired physicians and other health
13 professionals regulated by the Board who are directed by the Board to receive
14 treatment and rehabilitation for alcoholism, chemical dependency, or other physical,
15 emotional, or mental conditions.

16 **[(l)] (N)** (1) “Practice medicine” means to engage, with or without
17 compensation, in medical:

18 (i) Diagnosis;

19 (ii) Healing;

20 (iii) Treatment; or

21 (iv) Surgery.

22 (2) “Practice medicine” includes doing, undertaking, professing to do,
23 and attempting any of the following:

24 (i) Diagnosing, healing, treating, preventing, prescribing for, or
25 removing any physical, mental, or emotional ailment or supposed ailment of an
26 individual:

27 1. By physical, mental, emotional, or other process that
28 is exercised or invoked by the practitioner, the patient, or both; or

29 2. By appliance, test, drug, operation, or treatment;

30 (ii) Ending of a human pregnancy; and

31 (iii) Performing acupuncture as provided under § 14–504 of this
32 title.

- 1 (3) “Practice medicine” does not include:
- 2 (i) Selling any nonprescription drug or medicine;
- 3 (ii) Practicing as an optician; or
- 4 (iii) Performing a massage or other manipulation by hand, but
- 5 by no other means.

6 **[(m)] (o)** “Related institution” has the meaning stated in § 19–301 of the

7 Health – General Article.

8 14–404.

9 (a) Subject to the hearing provisions of § 14–405 of this subtitle, the Board,

10 on the affirmative vote of a majority of the quorum, may reprimand any licensee, place

11 any licensee on probation, or suspend or revoke a license if the licensee:

12 (39) Intentionally misrepresents credentials for the purpose of

13 testifying or rendering an expert opinion in hearings or proceedings before the Board

14 or those otherwise delegated to the Office of Administrative Hearings; **[or]**

15 (40) Fails to keep adequate medical records as determined by

16 appropriate peer review; **OR**

17 **(41) PERFORMS ~~AN ELECTIVE~~ A COSMETIC SURGICAL PROCEDURE**

18 **IN AN OFFICE OR A FACILITY THAT IS NOT:**

19 **(I) ACCREDITED BY:**

20 **1. THE AMERICAN ASSOCIATION FOR**

21 **ACCREDITATION OF AMBULATORY SURGICAL FACILITIES;**

22 **2. THE ACCREDITATION ASSOCIATION FOR**

23 **AMBULATORY HEALTH CARE; OR**

24 **3. THE JOINT COMMISSION ON THE**

25 **ACCREDITATION OF HEALTH CARE ORGANIZATIONS; OR**

26 **(II) CERTIFIED TO PARTICIPATE IN THE MEDICARE**

27 **PROGRAM, AS ENACTED BY TITLE XVIII OF THE SOCIAL SECURITY ACT.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

29 October 1, 2010.