

Chapter 597

(House Bill 1296)

AN ACT concerning

**State Board of Physicians – Quasi–Judicial Powers *and the Board of Review* –
~~Revision~~ *Revisions***

FOR the purpose of authorizing the State Board of Physicians to issue a cease and desist order or obtain injunctive relief against an individual for taking any action ~~that may be~~ for which the Board determines there is a preponderance of evidence of grounds for discipline under a certain provision of law and that poses a certain risk to a patient; requiring the Board to adopt certain regulations to carry out a certain provision of law; *repealing the authority for certain persons to appeal certain decisions to the Board of Review, followed by a certain appeal; specifying that certain persons may take certain judicial appeals;* and generally relating to the ~~quasi-judicial powers of the~~ State Board of Physicians.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–206 *and 14–408*
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

14–206.

(a) Over the signature of an officer, the executive director, or the deputy director of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(b) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(c) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(d) (1) If the entry is necessary to carry out a duty under this title, the Board's executive director or other duly authorized agent or investigator of the Board may enter at any reasonable hour:

(i) A place of business of a licensed physician;

(ii) Private premises where the Board suspects that a person who is not licensed by the Board is practicing, attempting to practice, or offering to practice medicine, based on a formal complaint; or

(iii) Public premises.

(2) A person may not deny or interfere with an entry under this subsection.

(3) A person who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

(e) The Board may issue a cease and desist order or obtain injunctive relief AGAINST AN INDIVIDUAL for [practicing]:

(1) **PRACTICING** medicine without a license; **OR**

(2) **TAKING ANY ACTION ~~THAT~~:**

(I) **MAY BE FOR WHICH THE BOARD DETERMINES THERE IS A PREPONDERANCE OF EVIDENCE OF GROUNDS FOR DISCIPLINE UNDER § 14-404 OF THIS TITLE; AND**

(II) **POSES THAT POSES A SERIOUS RISK TO THE HEALTH, SAFETY, AND WELFARE OF A PATIENT.**

(F) **THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION, INCLUDING HEARING PROCEDURES AND SANCTIONS FOR NONCOMPLIANCE WITH A CEASE AND DESIST ORDER.**

14-408.

(a) [Except as provided in this section for an action under § 14-404 of this subtitle or § 14-5A-17 of this title, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may:

(1) Appeal that decision to the Board of Review; and

(2) Then take any further appeal allowed by the Administrative Procedure Act.

(b) (1) Any person aggrieved by a final decision of the Board IN A CONTESTED CASE, AS DEFINED IN THE ADMINISTRATIVE PROCEDURE ACT, [under § 14-404 of this subtitle or § 14-5A-17 of this title may not appeal to the Secretary or Board of Review but] may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

[(c) (B) An order of the Board may not be stayed pending review.

[(d) (C) The Board may appeal from any decision that reverses or modifies its order.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 16, 2013.