

**HB1009/436687/1**

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 1009

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Medical Spa Facilities – Licensing Requirements” and substitute “Cosmetic Surgical Facilities - Regulation”; strike beginning with “prohibiting” in line 3 down through “penalty;” in line 26 and substitute “authorizing the Secretary of Health and Mental Hygiene to adopt certain regulations for cosmetic surgical facilities; authorizing the Secretary to investigate certain complaints relating to cosmetic surgical facilities; requiring certain complaints to be referred to certain health occupations boards; altering a certain definition;”; and in lines 26 and 27, strike “licensing medical spa” and substitute “regulating cosmetic surgical”.

On page 2, in line 1, strike “19-3C-09” and substitute “19-3C-03”; in line 2, strike “Medical Spa” and substitute “Cosmetic Surgical”; and after line 4, insert:

“BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14-101(d)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)”.

AMENDMENT NO. 2

On page 2, before line 5, insert:

“Preamble

WHEREAS, Licensure of ambulatory surgical centers may exclude offices and facilities in which cosmetic surgical procedures are performed; and

(Over)

WHEREAS, The authority of the Board of Physicians to discipline licensees who perform cosmetic surgical procedures excludes specified procedures and only responds to specific complaints; and

WHEREAS, The infections, subsequent hospitalizations, and, in the case of one individual, death among individuals who had undergone liposuction at a medical spa in the State exposed weaknesses in the State's regulation of offices and facilities in which cosmetic surgical procedures are performed; now, therefore,.

AMENDMENT NO. 3

On page 2, in line 8, strike "**MEDICAL SPA**" and substitute "**COSMETIC SURGICAL**"; and strike in their entirety lines 12 through 28, inclusive, and substitute:

**"(B) (1) "COSMETIC SURGICAL FACILITY" MEANS AN OFFICE OR A FACILITY IN WHICH A COSMETIC SURGICAL PROCEDURE IS PERFORMED.**

**(2) "COSMETIC SURGICAL FACILITY" DOES NOT INCLUDE:**

**(I) AN AMBULATORY SURGICAL FACILITY REGULATED UNDER SUBTITLE 3B OF THIS TITLE;**

**(II) A HOSPITAL REGULATED UNDER SUBTITLE 3 OF THIS TITLE; OR**

**(III) AN OFFICE OWNED OR OPERATED BY ONE OR MORE DENTISTS PROVIDING SERVICES WITHIN THE SCOPE OF PRACTICE OF DENTISTRY UNDER TITLE 4 OF THE HEALTH OCCUPATIONS ARTICLE."**

On page 3, in line 4, after “(2)” insert “EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,”; in the same line, strike “COSMETIC” and substitute “COSMETIC”; and after line 8, insert:

“(3) “COSMETIC SURGICAL PROCEDURE” INCLUDES ANY PROCEDURE UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT, UNDER THE CIRCUMSTANCES ESTABLISHED BY THE SECRETARY IN REGULATIONS ADOPTED UNDER § 19-3C-02(D) OF THIS SUBTITLE, IS A COSMETIC SURGICAL PROCEDURE.”.

On pages 3 through 8, strike in their entirety the lines beginning with line 9 on page 3 through line 3 on page 8, inclusive, and substitute:

“19-3C-02.

(A) THE SECRETARY MAY ADOPT REGULATIONS FOR COSMETIC SURGICAL FACILITIES IN THE STATE.

(B) REGULATIONS ADOPTED BY THE SECRETARY UNDER THIS SECTION SHALL INCLUDE DEEMING A COSMETIC SURGICAL FACILITY TO MEET SPECIFIED REQUIREMENTS, IF THE COSMETIC SURGICAL FACILITY IS ACCREDITED BY:

(1) THE AMERICAN ASSOCIATION FOR ACCREDITATION OF AMBULATORY SURGICAL FACILITIES;

(2) THE ACCREDITATION ASSOCIATION FOR AMBULATORY HEALTH CARE;

(3) THE JOINT COMMISSION; OR

(Over)

(4) ANY OTHER ACCREDITATION ORGANIZATION, AS DETERMINED BY THE SECRETARY.

(C) REGULATIONS ADOPTED UNDER THIS SECTION MAY NOT REQUIRE HIGHER STANDARDS FOR COSMETIC SURGICAL FACILITIES THAN THE STANDARDS REQUIRED FOR AMBULATORY SURGICAL FACILITIES UNDER SUBTITLE 3B OF THIS TITLE.

(D) (1) THE SECRETARY MAY ADOPT REGULATIONS THAT ESTABLISH THE CIRCUMSTANCES UNDER WHICH A PROCEDURE IS A "COSMETIC SURGICAL PROCEDURE" UNDER § 19-3C-01(C)(3) OF THIS SUBTITLE.

(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON A FINDING BY THE SECRETARY THAT THE PROCEDURE RAISES SUBSTANTIAL HEALTH AND SAFETY CONCERNS THAT WARRANT REGULATION OF THE PROCEDURE UNDER THIS SUBTITLE.

(3) IN ADOPTING REGULATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL CONSIDER AVAILABLE STUDIES, REPORTS, AND OTHER LITERATURE RELATED TO:

(I) THE SAFETY OR RISKS OF THE PROCEDURE;

(II) THE EDUCATION AND TRAINING OF THE HEALTH CARE PRACTITIONERS ADMINISTERING ANESTHESIA FOR THE PROCEDURE;

(III) THE EDUCATION AND TRAINING OF THE HEALTH CARE PRACTITIONERS PERFORMING THE PROCEDURE; AND

(IV) THE SETTING IN WHICH THE PROCEDURE IS PERFORMED.

19-3C-03.

(A) THE SECRETARY MAY INVESTIGATE COMPLAINTS CONCERNING THE CONFORMANCE OF A COSMETIC SURGICAL FACILITY TO THE REQUIREMENTS OF REGULATIONS ADOPTED UNDER § 19-3C-02 OF THIS SUBTITLE.

(B) IF THE COMPLAINT CONCERNS HEALTH CARE PRACTITIONER PERFORMANCE OR STANDARDS OF MEDICAL PRACTICE, THE COMPLAINT SHALL BE REFERRED TO THE APPROPRIATE HEALTH OCCUPATIONS BOARD THAT LICENSES, CERTIFIES, OR OTHERWISE REGULATES THE HEALTH CARE PRACTITIONER UNDER THE HEALTH OCCUPATIONS ARTICLE.

Article – Health Occupations

14-101.

(d) (1) “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.

(2) [“Cosmetic] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, “COSMETIC surgical procedure” does not include:

- (i) A procedure done under local anesthesia or mild sedation; or
- (ii) Liposuction that removes less than 1,000 cubic centimeters of aspirate.

(Over)

(3) “COSMETIC SURGICAL PROCEDURE” INCLUDES ANY PROCEDURE UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT, UNDER THE CIRCUMSTANCES ESTABLISHED BY THE SECRETARY IN REGULATIONS ADOPTED UNDER TITLE 19, SUBTITLE 3C OF THE HEALTH – GENERAL ARTICLE, IS A COSMETIC SURGICAL PROCEDURE.”.