

SENATE BILL 509

J3, J2

3lr1671
CF 3lr1587

By: **Senator Middleton**

Introduced and read first time: January 31, 2013

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Cosmetic Surgery – Regulation**

3 FOR the purpose of requiring an office or a facility in which a cosmetic surgical
4 procedure is performed to be licensed by the Secretary of Health and Mental
5 Hygiene as a freestanding ambulatory care facility; authorizing the State Board
6 of Physicians to take certain disciplinary action against a licensee who performs
7 a cosmetic surgical procedure in a certain facility without being approved
8 through a certain credentialing process or participating in a certain practitioner
9 performance evaluation process; altering certain definitions; defining a certain
10 term; and generally relating to regulation of cosmetic surgery by the State
11 Board of Physicians and the Department of Health and Mental Hygiene.

12 BY renumbering

13 Article – Health – General
14 Section 19–3B–01(d) through (l), respectively
15 to be Section 19–3B–01(e) through (m), respectively
16 Annotated Code of Maryland
17 (2009 Replacement Volume and 2012 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article – Health – General
20 Section 19–3B–01(a) and 19–3B–02(a)
21 Annotated Code of Maryland
22 (2009 Replacement Volume and 2012 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Health – General
25 Section 19–3B–01(b) and (c)
26 Annotated Code of Maryland
27 (2009 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Health – General
3 Section 19–3B–01(c)
4 Annotated Code of Maryland
5 (2009 Replacement Volume and 2012 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Health Occupations
8 Section 14–101(d) and 14–404(a)(41)
9 Annotated Code of Maryland
10 (2009 Replacement Volume and 2012 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That Section(s) 19–3B–01(d) through (l), respectively, of Article –
13 Health – General of the Annotated Code of Maryland be renumbered to be Section(s)
14 19–3B–01(e) through (m), respectively.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
16 read as follows:

17 **Article – Health – General**

18 19–3B–01.

19 (a) In this subtitle the following words have the meanings indicated.

20 (b) (1) “Ambulatory surgical facility” means any center, service, office
21 facility, or other entity that:

22 (i) Operates primarily for the purpose of providing surgical
23 services to patients requiring a period of postoperative observation but not requiring
24 overnight hospitalization; and

25 (ii) Seeks reimbursement from payors as an ambulatory surgery
26 center.

27 (2) “Ambulatory surgical facility” does not include:

28 (i) The office of one or more health care practitioners seeking
29 only professional reimbursement for the provisions of medical services, unless:

30 1. The office operates under contract or other agreement
31 with a payor as an ambulatory surgical facility regardless of whether it is paid a
32 technical or facility fee; or

33 2. The office is designated to receive ambulatory surgical
34 referrals in accordance with utilization review or other policies adopted by a payor;

1 (ii) Any facility or service owned or operated by a hospital and
2 regulated under Subtitle 2 of this title;

3 (iii) The office of a health care practitioner with not more than
4 one operating room if:

5 1. The office does not receive a technical or facility fee;
6 and

7 2. The operating room is used exclusively by the health
8 care practitioner for patients of the health care practitioner;

9 (iv) The office of a group of health care practitioners with not
10 more than one operating room if:

11 1. The office does not receive a technical or facility fee;
12 and

13 2. The operating room is used exclusively by members of
14 the group practice for patients of the group practice; or

15 (v) An office owned or operated by one or more dentists licensed
16 under the Health Occupations Article.

17 **(3) NOTWITHSTANDING PARAGRAPHS (1)(II) AND (2) OF THIS**
18 **SUBSECTION, “AMBULATORY SURGICAL FACILITY” INCLUDES AN OFFICE OR A**
19 **FACILITY IN WHICH A COSMETIC SURGICAL PROCEDURE IS PERFORMED.**

20 **(C) “COSMETIC SURGICAL PROCEDURE” MEANS THE USE OF SURGICAL**
21 **SERVICES TO RESHAPE THE STRUCTURE OF A HUMAN BODY IN ORDER TO**
22 **CHANGE THE APPEARANCE OF AN INDIVIDUAL.**

23 **[(c)] (D)** “Freestanding ambulatory care facility” means:

24 (1) An ambulatory surgical facility;

25 (2) A freestanding endoscopy facility;

26 (3) A freestanding facility utilizing major medical equipment;

27 (4) A kidney dialysis center; or

28 (5) A freestanding birthing center.

29 19-3B-02.

1 (a) A freestanding ambulatory care facility may not operate in the State
2 unless the Secretary has granted the facility a license.

3 **Article – Health Occupations**

4 14–101.

5 (d) [(1)] “Cosmetic surgical procedure” means the use of surgical services to
6 reshape the structure of a human body in order to change the appearance of an
7 individual.

8 [(2)] “Cosmetic surgical procedure” does not include:

9 (i) A procedure done under local anesthesia or mild sedation; or

10 (ii) Liposuction that removes less than 1,000 cubic centimeters
11 of aspirate.]

12 14–404.

13 (a) Subject to the hearing provisions of § 14–405 of this subtitle, the Board,
14 on the affirmative vote of a majority of the quorum, may reprimand any licensee, place
15 any licensee on probation, or suspend or revoke a license if the licensee:

16 (41) Performs a cosmetic surgical procedure [in]:

17 (I) IN an office or a facility that is not:

18 [(i)] 1. Accredited by:

19 [1.] A. The American Association for Accreditation of
20 Ambulatory Surgical Facilities;

21 [2.] B. The Accreditation Association for Ambulatory
22 Health Care; or

23 [3.] C. The Joint Commission on the Accreditation of
24 Health Care Organizations; or

25 [(ii)] 2. Certified to participate in the Medicare program, as
26 enacted by Title XVIII of the Social Security Act; OR

27 (II) IN A FREESTANDING AMBULATORY CARE FACILITY,
28 WITHOUT BEING APPROVED THROUGH THE CREDENTIALING PROCESS OR

1 PARTICIPATING IN THE PRACTITIONER PERFORMANCE EVALUATION PROCESS
2 REQUIRED UNDER § 15-3B-03(A) OF THE HEALTH – GENERAL ARTICLE.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2013.