

SENATE BILL 954

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CF HB 980

By: **Senator Benson**

Introduced and read first time: February 14, 2013

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 21, 2013

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2013

CHAPTER _____

1 AN ACT concerning

2 **Maryland Board of Physicians – Authority to Issue Temporary Licenses and**
3 **Radiation Therapy, Radiography, Nuclear Medicine Technology, and**
4 **Radiology Assistance Advisory Committee**

5 FOR the purpose of repealing the authority of the Maryland Board of Physicians to
6 issue temporary licenses to practice radiation therapy, radiography, or nuclear
7 medicine technology; repealing certain provisions of law referring to certain
8 temporary licenses; ~~reducing the number of members appointed to the~~
9 ~~Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology~~
10 ~~Assistance Advisory Committee~~; repealing a certain defined term; altering a
11 certain definition; making certain clarifying and technical changes; and
12 generally relating to the Radiation Therapy, Radiography, Nuclear Medicine
13 Technology, and Radiology Assistance Advisory Committee and the repeal of the
14 authority of the Maryland Board of Physicians to issue temporary licenses.

15 BY repealing and reenacting, without amendments,
16 Article – Health Occupations
17 Section 14–5B–01(a) and 14–5B–05(b)
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2012 Supplement)

20 BY repealing
21 Article – Health Occupations
22 Section 14–5B–01(e)

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 Annotated Code of Maryland
2 (2009 Replacement Volume and 2012 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Health Occupations
5 Section 14–5B–01(p), 14–5B–05(a) ~~and (b)~~, 14–5B–07, 14–5B–09, 14–5B–13,
6 14–5B–14(a) and (c), 14–5B–15(a) through (c), and 14–5B–18.1(a)
7 through (c)
8 Annotated Code of Maryland
9 (2009 Replacement Volume and 2012 Supplement)

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

12 **Article – Health Occupations**

13 14–5B–01.

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

15 [(e) “Holder of a temporary license” means an individual who is granted a
16 temporary license to practice radiation therapy, radiography, or nuclear medicine
17 technology pending fulfillment of the requirements under § 14–5B–09(c) of this
18 subtitle.]

19 (p) “Practice radiology assistance” means to practice [medical radiation
20 technology] **RADIOGRAPHY** and to perform:

21 (1) Fluoroscopy and selected radiology procedures;

22 (2) Patient assessment; and

23 (3) Patient management.

24 14–5B–05.

25 (a) There is a Radiation Therapy, Radiography, Nuclear Medicine
26 Technology [Advisory], and Radiology Assistance **ADVISORY** Committee within the
27 Board.

28 (b) (1) The Committee consists of ~~[10] NINE~~ members appointed by the
29 Board.

30 (2) Of the ~~[10] NINE~~ members:

- 1 (i) One shall be a licensed physician who specializes in
2 radiology;
- 3 (ii) One shall be a licensed physician who specializes in
4 radiology and who supervises a radiologist assistant;
- 5 (iii) One shall be a licensed physician who specializes in nuclear
6 medicine;
- 7 (iv) One shall be a licensed physician who specializes in
8 radiation oncology;
- 9 (v) One shall be a radiation therapist;
- 10 (vi) One shall be a radiographer;
- 11 ~~[(vii) One shall be a radiologist assistant;]~~
- 12 ~~[(viii)] ~~(vii)~~ One shall be a nuclear medicine technologist;~~
- 13 ~~[(ix)] ~~(viii)~~ One shall be a consumer member; and~~
- 14 ~~[(x)] ~~(ix)~~ One shall be a member of the Board.~~

15 14-5B-07.

16 (a) (1) A licensee [or holder of a temporary license] may only practice
17 under the supervision of a licensed physician.

18 (2) The failure of a licensed physician to properly supervise a licensee
19 is unprofessional conduct in the practice of medicine under § 14-404(a)(3) of this title.

20 (b) (1) Except as provided in paragraph (2) of this subsection, the practice
21 of a radiation therapist, radiographer, nuclear medicine technologist, **OR** radiologist
22 assistant[, or holder of a temporary license] is limited to those procedures, operations,
23 preparations, and practices listed in regulation.

24 (2) A radiologist assistant may not:

- 25 (i) Interpret images;
- 26 (ii) Make diagnoses; or
- 27 (iii) Prescribe medications or therapies.

28 14-5B-09.

1 (a) To qualify for a license, an applicant shall be an individual who meets the
2 requirements of this section.

3 (b) Except as provided in subsection (c) of this section, the applicant shall:

4 (1) Be of good moral character;

5 (2) Be at least 18 years old;

6 (3) Demonstrate oral and written competency in English as required
7 by the Board; and

8 (4) Meet any educational, training, or examination requirements
9 established by the Board, including:

10 (i) Graduation from an appropriate educational program as
11 determined by the Board; and

12 (ii) Certification.

13 (c) To qualify for a license to practice as a radiologist assistant, an applicant
14 shall:

15 (1) Be issued a general license to perform [medical radiation
16 technology] **RADIOGRAPHY**;

17 (2) Complete an advanced academic program with a nationally
18 recognized radiology curriculum that results in a baccalaureate degree, post
19 baccalaureate certificate, or graduate degree and incorporates a radiologist-directed
20 clinical preceptorship;

21 (3) Be certified in advanced cardiac life support; and

22 (4) Be certified as a radiologist assistant by the American Registry of
23 Radiologic Technologists.

24 [(d) (1) Except for a license to practice radiology assistance, the Board may
25 issue a temporary license to an applicant who:

26 (i) Except for the certification requirement, has met all of the
27 requirements for licensure in this section; and

28 (ii) Is scheduled to take a national certifying examination
29 within 3 months after graduation from an appropriate educational program.

1 (2) The Board shall adopt regulations governing the issuance of
2 temporary licenses to applicants in accordance with this subsection.]

3 [(e)] (D) Except for requirements adopted by the Board for license renewal
4 under § 14–5B–12 of this subtitle, nothing in this subtitle may be construed to require
5 an individual who is certified by the Board as a radiation oncology/therapy
6 technologist, medical radiation technologist, or nuclear medicine technologist as of
7 October 1, 2008, to meet additional education, training, or examination requirements.

8 14–5B–13.

9 Unless the Board agrees to accept the surrender of a license [or temporary
10 license], a licensee [or holder of a temporary license] may not surrender the license [or
11 temporary license] and the license [or temporary license] may not lapse by operation
12 of law while the licensee [or holder of a temporary license] is under investigation or
13 while charges are pending against the licensee [or holder of a temporary license].

14 14–5B–14.

15 (a) Subject to the hearing provisions of § 14–405 of this title, the Board, on
16 the affirmative vote of a majority of the quorum may deny a license [or temporary
17 license] to any applicant, reprimand any licensee [or holder of a temporary license],
18 place any licensee [or holder of a temporary license] on probation, or suspend or
19 revoke a license if the applicant OR licensee [or holder of a temporary license]:

20 (1) Fraudulently or deceptively obtains or attempts to obtain a license
21 [or temporary license] for the applicant, licensed individual, [holder of a temporary
22 license,] or for another;

23 (2) Fraudulently or deceptively uses a license [or temporary license];

24 (3) Is guilty of unprofessional or immoral conduct in the practice of
25 radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

26 (4) Is professionally, physically, or mentally incompetent;

27 (5) Abandons a patient;

28 (6) Is habitually intoxicated;

29 (7) Is addicted to or habitually abuses any narcotic or controlled
30 dangerous substance as defined in § 5–101 of the Criminal Law Article;

31 (8) Provides professional services while:

32 (i) Under the influence of alcohol; or

1 (ii) Using any narcotic or controlled dangerous substance as
2 defined in § 5–101 of the Criminal Law Article or any other drug that is in excess of
3 therapeutic amounts or without valid medical indication;

4 (9) Promotes the sale of services, drugs, devices, appliances, or goods
5 to a patient so as to exploit the patient for financial gain;

6 (10) Willfully makes or files a false report or record in the practice of
7 radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

8 (11) Willfully fails to file or record any report as required under law,
9 willfully impedes or obstructs the filing or recording of a report, or induces another to
10 fail to file or record a report;

11 (12) Breaches patient confidentiality;

12 (13) Pays or agrees to pay any sum or provide any form of remuneration
13 or material benefit to any person for bringing or referring a patient or accepts or
14 agrees to accept any sum or any form of remuneration or material benefit from an
15 individual for bringing or referring a patient;

16 (14) Knowingly makes a misrepresentation while practicing radiation
17 therapy, radiography, nuclear medicine technology, or radiology assistance;

18 (15) Knowingly practices radiation therapy, radiography, nuclear
19 medicine technology, or radiology assistance with an unauthorized individual or aids
20 an unauthorized individual in the practice of radiation therapy, radiography, nuclear
21 medicine technology, or radiology assistance;

22 (16) Offers, undertakes, or agrees to cure or treat disease by a secret
23 method, treatment, or medicine;

24 (17) Is disciplined by a licensing or disciplinary authority or is
25 convicted or disciplined by a court of any state or country or is disciplined by any
26 branch of the United States uniformed services or the Veterans' Administration for an
27 act that would be grounds for disciplinary action under the Board's disciplinary
28 statutes;

29 (18) Fails to meet appropriate standards for the delivery of quality
30 radiation therapy, radiography, nuclear medicine technology, or radiology assistance
31 care performed in any outpatient surgical facility, office, hospital or related
32 institution, or any other location in this State;

33 (19) Knowingly submits false statements to collect fees for which
34 services are not provided;

1 (20) (i) Has been subject to investigation or disciplinary action by a
2 licensing or disciplinary authority or by a court of any state or country for an act that
3 would be grounds for disciplinary action under the Board's disciplinary statutes; and

4 (ii) The licensed individual:

5 1. Surrendered the license issued by the state or
6 country; or

7 2. Allowed the license issued by the state or country to
8 expire or lapse;

9 (21) Knowingly fails to report suspected child abuse in violation of §
10 5–704 of the Family Law Article;

11 (22) Sells, prescribes, gives away, or administers drugs for illegal or
12 illegitimate medical purposes;

13 (23) Practices or attempts to practice beyond the authorized scope of
14 practice;

15 (24) Refuses, withholds from, denies, or discriminates against an
16 individual with regard to the provision of professional services for which the licensee
17 [or holder of a temporary license] is licensed and qualified to render because the
18 individual is HIV positive;

19 (25) Practices or attempts to practice a radiation therapy, radiography,
20 nuclear medicine technology, or radiology assistance procedure or uses radiation
21 therapy, radiography, nuclear medicine technology, or radiology assistance equipment
22 if the applicant or licensee [or holder of a temporary license] has not received
23 education, internship, training, or experience in the performance of the procedure or
24 the use of the equipment;

25 (26) Fails to cooperate with a lawful investigation conducted by the
26 Board; or

27 (27) Fails to practice under the supervision of a physician or violates a
28 supervisory order of a supervising physician.

29 (c) (1) On the filing of certified docket entries with the Board by the
30 Office of the Attorney General, the Board shall order the suspension of a licensee [or
31 holder of a temporary license] if the licensee [or holder of a temporary license] is
32 convicted of or pleads guilty or nolo contendere with respect to a crime involving moral
33 turpitude, whether or not any appeal or other proceeding is pending to have the
34 conviction or plea set aside.

1 (2) After completion of the appellate process if the conviction has not
2 been reversed or the plea has not been set aside with respect to a crime involving
3 moral turpitude, the Board shall order the revocation of a license [or temporary
4 license] on the certification by the Office of the Attorney General.

5 14-5B-15.

6 (a) Except as provided in subsections (b) and (d) of this section, hospitals,
7 related institutions, alternative health systems as defined in § 1-401 of this article,
8 and employers shall file with the Board a report that the hospital, related institution,
9 alternative health system, or employer limited, reduced, otherwise changed, or
10 terminated any licensee [or holder of a temporary license] for any reason that might
11 be grounds for disciplinary action under [§ 14-5B-13] **§ 14-5B-14** of this subtitle.

12 (b) A hospital, related institution, alternative health system, or employer
13 that has reason to know that a licensee [or holder of a temporary license] has
14 committed an action or has a condition that might be grounds for reprimand or
15 probation of the licensee [or holder of a temporary license] or suspension or revocation
16 of the licensure because the licensee [or holder of a temporary license] is alcohol
17 impaired or drug impaired is not required to report the licensee [or holder of a
18 temporary license] to the Board if:

19 (1) The hospital, related institution, alternative health system, or
20 employer knows that the licensee [or holder of a temporary license] is:

21 (i) In an alcohol or drug treatment program that is accredited
22 by the Joint Commission on Accreditation of Healthcare Organizations or is certified
23 by the Department; or

24 (ii) Under the care of a health care practitioner who is
25 competent and capable of dealing with alcoholism and drug abuse;

26 (2) (i) The hospital, related institution, alternative health system,
27 or employer is able to verify that the licensee [or holder of a temporary license]
28 remains in the treatment program until discharge; and

29 (ii) The action or condition of the licensee [or holder of a
30 temporary license] has not caused injury to any person while the licensee [or holder of
31 a temporary license] is practicing.

32 (c) (1) If the licensee [or holder of a temporary license] enters, or is
33 considering entering, an alcohol or drug treatment program that is accredited by the
34 Joint Commission on Accreditation of Healthcare Organizations or that is certified by
35 the Department, the licensee [or holder of a temporary license] shall notify the
36 hospital, related institution, alternative health system, or employer of the licensee's
37 [or holder's] decision to enter the treatment program.

1 (2) If the licensee [or holder of a temporary license] fails to provide the
2 notice required under paragraph (1) of this subsection, and the hospital, related
3 institution, alternative health system, or employer learns that the licensee [or holder
4 of a temporary license] has entered a treatment program, the hospital, related
5 institution, alternative health system, or employer shall report to the Board that the
6 licensee [or holder of a temporary license] has entered a treatment program and has
7 failed to provide the required notice.

8 (3) If the licensee [or holder of a temporary license] is found to be
9 noncompliant with the treatment program's policies and procedures while in the
10 treatment program, the treatment program shall notify the hospital, related
11 institution, alternative health system, or employer of the licensee's [or holder's]
12 noncompliance.

13 (4) On receipt of the notification required under paragraph (3) of this
14 subsection, the hospital, related institution, alternative health system, or employer of
15 the licensee [or holder of a temporary license] shall report the licensee's [or holder's]
16 noncompliance to the Board.

17 14-5B-18.1.

18 (a) Except as otherwise provided in this subtitle, a licensed physician may
19 not employ or supervise an individual practicing radiation therapy, radiography,
20 nuclear medicine technology, or radiology assistance without a license [or temporary
21 license].

22 (b) Except as otherwise provided in this subtitle, a hospital, related
23 institution, alternative health system, or employer may not employ an individual
24 practicing radiation therapy, radiography, nuclear medicine technology, or radiology
25 assistance without a license [or temporary license].

26 (c) The Board may impose a civil penalty of up to \$1,000 for employing an
27 individual without a license [or temporary license] under this section.

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