

HOUSE BILL 1456

J1, J2

(4lr0122)

ENROLLED BILL

— *Health and Government Operations/Finance* —

Introduced by **Chair, Health and Government Operations Committee (By Request – Departmental – Health and Mental Hygiene)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Department of Health and Mental Hygiene – Board of Review – Jurisdiction**

3 FOR the purpose of limiting the jurisdiction of the Board of Review of the Department
4 of Health and Mental Hygiene to hear and determine appeals from decisions of
5 the Secretary of Health and Mental Hygiene and units in the Department;
6 authorizing the Board to hear and determine any appeal from a decision of the
7 Secretary in a contested case concerning an individual's eligibility for or
8 participation in certain programs; excluding from the Board's review
9 jurisdiction certain Maryland Medical Assistance Program eligibility decisions
10 delegated by the Secretary to the Maryland Health Benefit Exchange; providing
11 that a person aggrieved by a certain adverse determination subject to review by
12 the Board forgo review by the Board and instead petition for judicial review;
13 providing that certain decisions are affirmed if the Board does not issue a
14 decision within a certain period of time after submitting the notice of appeal;

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.

Italics indicate opposite chamber/conference committee amendments.



1 providing that any party may seek an appeal from a decision of the Board;
 2 repealing certain obsolete provisions of law; requiring the Department to study
 3 the continued role of the Board and report its findings and recommendations to
 4 the Governor and certain committees of the General Assembly on or before a
 5 certain date; *providing for the application of this Act*; making conforming
 6 changes; and generally relating to the jurisdiction of the Board of Review of the
 7 Department of Health and Mental Hygiene.

8 BY repealing and reenacting, with amendments,

9 Article – Health – General

10 Section 2–206, 2–207, 10–511, 10–524, 19–330, and 19–732

11 Annotated Code of Maryland

12 (2009 Replacement Volume and 2013 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Health Occupations

15 Section 1A–311, 2–316, 3–316, 4–319, 5–313, 7–320, 8–318, 8–6B–21, 9–309,
 16 9–316, 10–317, 11–318, 12–316, 12–412, 13–318, 14–408, 15–313, 16–315,

17 17–512, 18–316, 19–313, 20–308, and 20–315

18 Annotated Code of Maryland

19 (2009 Replacement Volume and 2013 Supplement)

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

22 **Article – Health – General**

23 2–206.

24 (a) The Board shall make recommendations to the Secretary on the operation
 25 and administration of the Department as the Board considers necessary or desirable.

26 (b) If an advisory board for the Department is not created, the Board shall
 27 advise the Secretary on all matters affecting the Department that the Secretary
 28 submits to the Board for its consideration.

29 (c) **(1)** Except as [expressly] provided [otherwise] **IN PARAGRAPH (2) OF**
 30 **THIS SUBSECTION**, the Board shall hear and determine any appeal from[:

31 (1) A decision of the Secretary or any unit in the Department in a
 32 contested case that is subject to judicial review under § 10–222 of the State
 33 Government Article;

34 (2) A decision of the Secretary or any unit in the Department that is
 35 subject to judicial review under any provision of law other than §§ 10–125 and 10–222
 36 of the State Government Article; and

1 (3) An action of or inaction by any unit in the Department for which
2 the Secretary, by rule or regulation, provides for review by the Board.] **A DECISION**
3 **OF THE SECRETARY IN A CONTESTED CASE CONCERNING AN INDIVIDUAL'S**
4 **ELIGIBILITY FOR OR PARTICIPATION IN THE MARYLAND MEDICAL ASSISTANCE**
5 **PROGRAM, INCLUDING HOME- AND COMMUNITY-BASED WAIVER SERVICES**
6 **PROGRAMS AND OTHER DEMONSTRATION WAIVER PROGRAMS.**

7 **(2) MARYLAND MEDICAL ASSISTANCE PROGRAM ELIGIBILITY**
8 **DECISIONS MADE UNDER DELEGATION BY THE SECRETARY TO THE MARYLAND**
9 **HEALTH BENEFIT EXCHANGE ARE NOT SUBJECT TO REVIEW BY THE BOARD.**

10 (d) The Board shall report at least annually to the Secretary. Its report shall
11 include a summary by categories of appeals heard and determinations made.

12 (e) A Board member may not vote or otherwise participate in the Board's
13 consideration of any matter in which the member has a direct or indirect private
14 interest.

15 2-207.

16 (a) If any person is aggrieved by [any] **A decision OF THE SECRETARY**
17 **THAT IS SUBJECT TO REVIEW BY THE BOARD UNDER § 2-206(C)(1) OF THIS**
18 **SUBTITLE**[, action, or inaction on the part of the Secretary or of any unit in the
19 Department for which an appeal to the Board is provided by this subtitle], that person
20 is entitled to appeal as provided in this section.

21 [(b) Except as provided in subsection (e)(2) of this section, before beginning an
22 appeal, the person aggrieved shall make known the basis of the complaint to the
23 individual responsible for the decision, action, or inaction complained of, together with
24 a request for review. If, within 30 days after the request, a resolution satisfactory to
25 the complainant does not occur, the complainant may file a statement of complaint in
26 accordance with subsection (c) of this section.

27 (c) The complainant shall file a detailed written statement of the complaint
28 and all relevant facts and circumstances with the chief executive officer of the
29 Department or unit in the Department to which application for review is made. If
30 there is no chief executive officer, the statement may be filed with any member of the
31 unit's governing body. The complaint shall be acknowledged promptly in writing, and
32 a copy of the complaint and acknowledgment shall be sent to the Secretary.

33 (d) (1) The Department or unit then shall investigate the complaint.
34 Subject to extensions of time to which the parties may agree, the Department or unit
35 shall give a written decision and send a copy of it to the complainant within 30 days
36 after the filing of the complaint.

1 (2) A record shall be kept of each complaint and its disposition. The
2 record shall be open to public inspection during regular business hours.

3 (e) (1) If the matter is one for which an appeal to the Board is provided by
4 this subtitle, a complainant aggrieved by an adverse decision or action or by inaction
5 within the time required by subsection (d) of this section may file an appeal to the
6 Board.

7 (2) Subject to § 10-222 of the State Government Article, any party
8 aggrieved by a decision in a contested case for which an appeal is provided to the
9 Board may appeal directly to the Board.]

10 **(B) ANY APPEAL AUTHORIZED BY THIS SUBTITLE MUST BE FILED WITH**
11 **THE BOARD WITHIN 30 DAYS AFTER THE DATE OF THE DECISION FROM WHICH**
12 **THE APPEAL IS BEING TAKEN.**

13 **[(f)] (C)** (1) The Board shall adopt procedural rules and regulations as
14 provided in the Administrative Procedure Act and in all respects shall be governed by
15 that Act. At least 3 members shall sit at each hearing of the Board when it sits as a
16 board of appeal. Decisions shall be by a majority of the members sitting, shall be in
17 writing, and shall state the Board's reasons. The Board shall keep minutes of its
18 proceedings.

19 (2) A decision of the Board is a final agency decision for purposes of
20 judicial review under the Administrative Procedure Act [or any other law that permits
21 an appeal to the courts from a decision of a unit in the Department].

22 **(3) A PARTY AGGRIEVED BY A DECISION OF THE SECRETARY**
23 **NEED NOT EXHAUST THE ADMINISTRATIVE REMEDY BEFORE THE BOARD AS**
24 **PROVIDED IN THIS SECTION AND MAY PETITION FOR JUDICIAL REVIEW OF THE**
25 **SECRETARY'S DECISION AS A FINAL AGENCY DECISION UNDER THE**
26 **ADMINISTRATIVE PROCEDURE ACT.**

27 **(4) IF THE BOARD DOES NOT ISSUE A DECISION WITHIN 180 DAYS**
28 **AFTER SUBMISSION OF THE NOTICE OF APPEAL, THE DECISION OF THE**
29 **SECRETARY SHALL BE CONSIDERED AFFIRMED.**

30 **[(g)] (D)** (1) As to any issue for which the taking of evidence is
31 authorized, the chairman or the acting chairman may administer oaths and issue
32 subpoenas and orders for the attendance of witnesses and the production of evidence.

33 (2) If a person fails to comply with a lawful order or subpoena issued
34 under this subsection, on the petition of the chairman or acting chairman, a court of
35 competent jurisdiction may compel obedience to the order or subpoena or compel
36 testimony or the production of evidence.

1 **[(h)] (E) (1)** [Unless there is a special provision of law governing an
2 appeal of a decision of a particular unit, each appeal] **ANY PARTY MAY SEEK AN**
3 **APPEAL FROM A DECISION OF THE BOARD.**

4 **(2) APPEALS** from a decision of the Board shall be governed by the
5 Administrative Procedure Act.

6 10–511.

7 Any person aggrieved by a final decision of the Department in a contested case,
8 as defined in the Administrative Procedure Act, may[:

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

11 (2) Take any further appeal] **PETITION FOR JUDICIAL REVIEW AS**
12 allowed by the Administrative Procedure Act.

13 10–524.

14 Any person aggrieved by a final decision of the Secretary in a contested case, as
15 defined in the Administrative Procedure Act, may[:

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

18 (2) Take any further appeal] **PETITION FOR JUDICIAL REVIEW AS**
19 allowed by the Administrative Procedure Act to the circuit court for the county where
20 the private group home is located or planned.

21 19–330.

22 (a) Except as provided in this section for an action under § 19–329(a) of this
23 subtitle, any person aggrieved by a final decision of the Secretary in a contested case,
24 as defined in the Administrative Procedure Act, may[:

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

27 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
28 **AS** allowed by the Administrative Procedure Act.

29 (b) A person aggrieved by a final decision of the Secretary under § 19–329(a)
30 of this subtitle may not appeal.

1 19-732.

2 (a) Except as otherwise provided in Title 15, Subtitle 10A of the Insurance
3 Article, a party aggrieved by a final action of the Commissioner under this subtitle has
4 the right to a hearing and the right to appeal from the action of the Commissioner
5 under §§ 2-210 through 2-215 of the Insurance Article.

6 (b) A party aggrieved by an order of the Secretary under this subtitle may
7 [appeal that order to the Board of Review of the Department and take any further
8 appeal] **PETITION FOR JUDICIAL REVIEW AS** provided by the [State Government
9 Article] **ADMINISTRATIVE PROCEDURE ACT**.

10 **Article – Health Occupations**

11 1A-311.

12 (a) Except as provided in this section for an action under § 1A-309 of this
13 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
14 defined by the Administrative Procedure Act, may[:

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

16 (2) Take any further appeal] **PETITION FOR JUDICIAL REVIEW AS**
17 allowed by the Administrative Procedure Act.

18 (b) [(1)] Any person aggrieved by a final decision of the Board under §
19 1A-309 of this subtitle may not appeal to the Secretary [or Board of Review] but may
20 take a direct judicial appeal[.

21 (2) The appeal shall be made] as provided [for judicial review of final
22 decisions in Title 10, Subtitle 2 of the State Government Article] **BY THE**
23 **ADMINISTRATIVE PROCEDURE ACT**.

24 2-316.

25 (a) Except as provided in this section for an action under § 2-314 of this
26 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
27 defined in the Administrative Procedure Act, may[:

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

29 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
30 **AS** allowed by the Administrative Procedure Act.

1 (b) [(1)] Any person aggrieved by a final decision of the Board under §
2 2–314 of this subtitle may not appeal to the Secretary [or Board of Review] but may
3 take a direct judicial appeal[.

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

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

7 3–316.

8 (a) Except as provided in this section for an action under § 3–313 of this
9 subtitle or § 3–5A–11 of this title, any person aggrieved by a final decision of the
10 Board in a contested case, as defined in the Administrative Procedure Act, may[:

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

12 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
13 **AS** allowed by the Administrative Procedure Act.

14 (b) [(1)] Any person aggrieved by a final decision of the Board under §
15 3–313 of this subtitle or § 3–5A–11 of this title may not appeal to the Secretary [or
16 Board of Review] but may take a direct judicial appeal[.

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

19 4–319.

20 (a) Except as provided in this section for an action under § 4–315 of this
21 subtitle, a person aggrieved by a final decision of the Board in a contested case, as
22 defined in the Administrative Procedure Act, may[:

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

24 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
25 **AS** allowed by the Administrative Procedure Act.

26 (b) [(1)] Any person aggrieved by a final decision of the Board under §
27 4–315 of this subtitle may not appeal to the Secretary [or Board of Review] but may
28 take a direct judicial appeal[.

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

1 5–313.

2 (a) Except as otherwise provided in this section for an action under § 5–311
3 of this subtitle, any person aggrieved by a final decision of the Board in a contested
4 case, as defined in the Administrative Procedure Act, may[:

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

6 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
7 **AS** allowed by the Administrative Procedure Act.

8 (b) [(1)] Any person aggrieved by a final decision of the Board under §
9 5–311 of this subtitle may not appeal to the Secretary [or the Board of Review] but
10 may take a direct judicial appeal[.

11 (2) The appeal shall be made pursuant to the provisions on judicial
12 review of final decisions in Title 10, Subtitle 2 of the State Government Article] **AS**
13 **PROVIDED IN THE ADMINISTRATIVE PROCEDURE ACT.**

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

15 7–320.

16 (a) Except as provided in this section for an action against any health care
17 professional under § 7–316 of this subtitle, any person aggrieved by a final decision of
18 the Board in a contested case, as defined in the Administrative Procedure Act, may[:

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

20 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
21 **AS** allowed by the Administrative Procedure Act.

22 (b) [(1)] Any health care professional aggrieved by a final decision of the
23 Board under § 7–316 of this subtitle may not appeal to the Secretary [or Board of
24 Review] but may take a direct judicial appeal[.

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

27 (c) If a person notes an appeal from an order of suspension or revocation by
28 the Board, the order is stayed.

29 8–318.

1 (a) Except as provided in this section for an action under § 8–316 of this
2 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
3 defined in the Administrative Procedure Act, may[:

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

5 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
6 **AS** allowed by the Administrative Procedure Act.

7 (b) [(1)] Any person aggrieved by a final decision of the Board under §
8 8–316 of this subtitle may not appeal to the Secretary [or Board of Review] but may
9 take a direct judicial appeal[.

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

12 (c) A Board decision to deny, suspend, or revoke a license may not be stayed
13 while judicial review is pending.

14 8–6B–21.

15 (a) Except as provided in subsection (b) of this section, a person aggrieved by
16 a final decision of the Board in a contested case, as defined in the Administrative
17 Procedure Act, may[:

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

19 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
20 **AS** allowed by the Administrative Procedure Act.

21 (b) [(1)] A person aggrieved by a final decision of the Board pursuant to §
22 8–6B–19 of this subtitle may not appeal to the Secretary [or Board of Review] but may
23 take a direct judicial appeal[.

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

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

27 9–309.

28 The applicant may [appeal] **PETITION FOR JUDICIAL REVIEW OF** a decision of
29 the Board that relates to issuing or renewing a license [to the Board of Review as
30 provided in § 9–316(a) of this subtitle], **AS PROVIDED IN THE ADMINISTRATIVE**
31 **PROCEDURE ACT.**

1 9–316.

2 (a) Except as provided in this section for an action under § 9–314 of this
3 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
4 defined in the Administrative Procedure Act, may[:

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

6 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
7 **AS** allowed by the Administrative Procedure Act.

8 (b) [(1)] Any person aggrieved by a final decision of the Board under §
9 9–314 of this subtitle may not appeal to the Secretary [or Board of Review] but may
10 take a direct judicial appeal[.

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

13 (c) An order of the Board may not be stayed pending judicial review.

14 10–317.

15 (a) Except as provided in this section for an action under § 10–315 of this
16 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
17 defined in the Administrative Procedure Act, may[:

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

19 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
20 **AS** allowed by the Administrative Procedure Act.

21 (b) [(1)] Any person aggrieved by a final decision of the Board under §
22 10–315 of this subtitle may not appeal to the Secretary [or Board of Review] but may
23 take a direct judicial appeal[.

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

26 11–318.

27 (a) Except as provided in this section for an action under § 11–313 of this
28 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
29 defined in the Administrative Procedure Act, may[:

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

2 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
3 AS allowed by the Administrative Procedure Act.

4 (b) [(1)] Any person aggrieved by a final decision of the Board under §
5 11–313 of this subtitle may not appeal to the Secretary [or Board of Review] but may
6 take a direct judicial appeal[.

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

9 (c) If an optometrist seeks judicial review of an order of suspension or
10 revocation by the Board, the order shall be stayed until the optometrist’s judicial
11 remedies are exhausted.

12 12–316.

13 (a) Except as provided in this section for an action under § 12–313 of this
14 subtitle or § 12–6B–09 of this title, any person aggrieved by a final decision of the
15 Board in a contested case, as defined in the Administrative Procedure Act, may[:

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

17 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
18 AS allowed by the Administrative Procedure Act.

19 (b) [(1)] Any person aggrieved by a final decision of the Board under §
20 12–313 of this subtitle or § 12–6B–09 of this title may not appeal to the Secretary [or
21 Board of Review] but may take a direct judicial appeal[.

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

24 12–412.

25 (a) Any person whose application for a pharmacy permit has been denied or
26 whose pharmacy permit has been suspended or revoked under this title may[:

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

28 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
29 AS allowed by the Administrative Procedure Act.

1 (b) If an appeal is taken under this section, the Board may stay its order of
2 suspension or revocation pending the decision of the court.

3 13–318.

4 (a) Except as provided in this section for an action under § 13–316 of this
5 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
6 defined in the Administrative Procedure Act, may[:

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

8 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
9 **AS** allowed by the Administrative Procedure Act.

10 (b) [(1)] Any person aggrieved by a final decision of the Board under §
11 13–316 of this subtitle may not appeal to the Secretary [or Board of Review] but may
12 take a direct judicial appeal[.

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

15 14–408.

16 (a) [(1)] Any person aggrieved by a final decision of the Board or a
17 disciplinary panel in a contested case, as defined in the Administrative Procedure Act,
18 may take a direct judicial appeal[.

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

21 (b) An order of the Board or a disciplinary panel may not be stayed pending
22 review.

23 (c) The Board may appeal from any decision that reverses or modifies an
24 order of the Board or a disciplinary panel.

25 15–313.

26 (a) (1) Except as otherwise provided under § 10–226 of the State
27 Government Article, before the Board takes any action to deny a license or to reject or
28 modify a delegation agreement or advanced duty, the Board shall give the applicant or
29 licensee the opportunity for a hearing before the Board.

30 (2) The Board shall give notice and hold the hearing under Title 10,
31 Subtitle 2 of the State Government Article.

1 (3) The Board may administer oaths in connection with any
2 proceeding under this section.

3 (4) At least 14 days before the hearing, the hearing notice shall be
4 sent to the last known address of the applicant or licensee.

5 (b) Any applicant aggrieved under this subtitle by a final decision of the
6 Board denying a license or rejecting or modifying a delegation agreement or advanced
7 duty may[:

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

9 (2) Then take any further appeal allowed under Title 10, Subtitle 2 of
10 the State Government Article] **PETITION FOR JUDICIAL REVIEW AS ALLOWED BY**
11 **THE ADMINISTRATIVE PROCEDURE ACT.**

12 16–315.

13 (a) Except as provided in this section for an action under § 16–311 of this
14 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
15 defined in the Administrative Procedure Act, may[:

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

17 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
18 **AS** allowed by the Administrative Procedure Act.

19 (b) [(1)] Any person aggrieved by a final decision of the Board under §
20 16–311 of this subtitle may not appeal to the Secretary [or Board of Review] but may
21 take a direct judicial appeal[.

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

24 17–512.

25 (a) Except as provided in this section for an action under § 17–409 of this
26 title, any person aggrieved by a final decision of the Board in a contested case, as
27 defined in § 10–201 of the State Government Article, may[:

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

29 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
30 **AS** allowed by [Title 10, Subtitle 2 of the State Government Article] **THE**
31 **ADMINISTRATIVE PROCEDURE ACT.**

1 (b) Any person aggrieved by a final decision of the Board under §
2 17–509 of this subtitle[:

3 (1) May not appeal to the Board of Review; but

4 (2) May] **MAY** take a direct judicial appeal as provided in [Title 10,
5 Subtitle 2 of the State Government Article] **THE ADMINISTRATIVE PROCEDURE**
6 **ACT**.

7 (c) An order of the Board may not be stayed pending judicial review.

8 (d) The Board may [appeal from] **PETITION FOR JUDICIAL REVIEW OF** any
9 decision that reverses or modifies its order.

10 18–316.

11 (a) Except as provided in this section for an action under § 18–313 of this
12 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
13 defined in the Administrative Procedure Act, may[:

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

15 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
16 **AS** allowed by the Administrative Procedure Act.

17 (b) [(1)] Any person aggrieved by a final decision of the Board under §
18 18–313 of this subtitle may not appeal to the Secretary [or Board of Review] but may
19 take a direct judicial appeal[.

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

22 (c) A decision of the Board to deny a license, enforce a suspension of a license
23 for more than 1 year, or revoke a license may not be stayed pending judicial review.

24 19–313.

25 (a) Except as provided in this section for an action under § 19–311 of this
26 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
27 defined in the Administrative Procedure Act, may[:

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

1 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
2 **AS** allowed by the Administrative Procedure Act.

3 (b) [(1)] Any person aggrieved by a final decision of the Board under §
4 19–311 of this subtitle may not appeal to the Secretary [or Board of Review] but may
5 take a direct judicial appeal[.

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

8 20–308.

9 The applicant may [appeal] **PETITION FOR JUDICIAL REVIEW OF** a decision of
10 the Board that relates to issuing or renewing a certificate [to the Board of Review as
11 provided in § 20–315(a) of this subtitle] **AS ALLOWED BY THE ADMINISTRATION**
12 **PROCEDURE ACT.**

13 20–315.

14 (a) Except as provided in this section for an action under § 20–313 of this
15 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
16 defined in the Administrative Procedure Act, may[:

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

18 (2) Then take any further appeal] **PETITION FOR JUDICIAL REVIEW**
19 **AS** allowed by the Administrative Procedure Act.

20 (b) [(1)] Any person aggrieved by a final decision of the Board under §
21 20–314 of this subtitle may not appeal to the Secretary [or Board of Review] but may
22 take a direct judicial appeal[.

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

25 **SECTION 2. AND BE IT FURTHER ENACTED,** That, on or before November
26 1, 2015, the Department of Health and Mental Hygiene shall study the continued role
27 of the Board of Review of the Department and report its findings and
28 recommendations to the Governor and, in accordance with § 2–1246 of the State
29 Government Article, the General Assembly on whether the appellate jurisdiction of
30 the Board of Review should be further limited.

31 **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act shall apply to
32 decisions of the Secretary of Health and Mental Hygiene issued on or after the effective
33 date of this Act.

1 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect June 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.