

Chapter 770

(House Bill 957)

AN ACT concerning

~~Physicians – Licensure – Liability Coverage~~
**State Board of Physicians – Medical Professional Liability Insurance Coverage –
 Verification, Publication, and Notification Requirements**
 (Janet’s Law)

FOR the purpose of ~~requiring licensed physicians to maintain certain minimum amounts of professional liability insurance or attest to certain coverage as a condition of licensure and comply with certain regulations; requiring a licensed physician to notify the State Board of Physicians of the cancellation of the insurance or coverage within a certain time period; requiring a certain physician to provide the State Board of Physicians with certain verification or documentation on a certain application and at any other time on request of the Board; within a certain number of days after the Board requests the verification or documentation~~ *the physician receives a certain request from the Board;* ~~authorizing the Board to adopt certain regulations; authorizing the Board to take certain actions if verification or other documentation of insurance or coverage is not provided as required by certain provisions of this Act; authorizing the Board to conduct certain audits for certain purposes; providing for the construction of certain provisions of this Act; making conforming changes;~~ requiring the public individual profile of certain licensees of the Board to include certain information as reported to the Board, including information regarding whether the licensee maintains medical professional liability insurance; requiring certain licensees practicing medicine in the State to notify patients in writing, at each visit, of certain information relating to medical professional liability insurance coverage; requiring the notification to be provided at certain visits and as part of certain informed consents and signed by a patient at a certain time times; requiring a licensee to retain the notification as part of certain records and, under certain circumstances, to post certain information in a certain location at the licensee’s place of practice; requiring the State Board of Physicians to develop certain language for a certain required notification; and generally relating to physicians and liability coverage.

*BY adding to**Article – Health Occupations**Section 14-312.1 and 14-508**Annotated Code of Maryland**(2014 Replacement Volume and 2016 Supplement)*

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section ~~14-205(b)(1), 14-309, 14-316(e), 14-317, and 14-404(a)(41) and (42)~~
14-411.1(b)(6)

Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

~~BY adding to~~

~~Article — Health Occupations~~

~~Section 14-312.1 and 14-404(a)(43) and (44) 14-508~~

~~Annotated Code of Maryland~~

~~(2014 Replacement Volume and 2016 Supplement)~~

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

Article – Health Occupations

~~14-205.~~

~~(b) (1) In addition to the powers set forth elsewhere in this title, the Board may:~~

~~(i) Adopt regulations to regulate the performance of acupuncture, but only to the extent authorized by § 14-504 of this title;~~

~~(ii) After consulting with the State Board of Pharmacy, adopt rules and regulations regarding the dispensing of prescription drugs by a licensed physician;~~

~~(iii) Subject to the Administrative Procedure Act, deny a license to an applicant or, if an applicant has failed to renew the applicant's license, refuse to renew or reinstate an applicant's license for:~~

~~1. Any of the reasons that are grounds for action under § 14-404 of this title; [or]~~

~~2. Failure to submit to a criminal history records check in accordance with § 14-308.1 of this title;~~

~~3. FAILURE TO PROVIDE THE BOARD WITH VERIFICATION OR DOCUMENTATION THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR COVERAGE REQUIRED BY § 14-312.1 OF THIS TITLE; OR~~

~~4. PROVIDING THE BOARD WITH FALSE VERIFICATION OR DOCUMENTATION THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR COVERAGE REQUIRED BY § 14-312.1 OF THIS TITLE;~~

~~(iv) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the~~

~~office of a physician or acupuncturist, other than an office of a physician or acupuncturist in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease Control and Prevention's guidelines on universal precautions; and~~

~~(v) Contract with others for the purchase of administrative and examination services to carry out the provisions of this title.~~

~~14-300.~~

~~(a) To apply for a license, an applicant shall:~~

~~(1) Submit to a criminal history records check in accordance with § 14-308.1 of this subtitle;~~

~~(2) PROVIDE THE BOARD WITH VERIFICATION OR OTHER DOCUMENTATION THAT THE APPLICANT MAINTAINS THE INSURANCE OR COVERAGE REQUIRED BY § 14-312.1 OF THIS SUBTITLE;~~

~~[(2)] (3) Submit an application to the Board on the form that the Board requires; and~~

~~[(3)] (4) Pay to the Board the application fee set by the Board.~~

~~(b) The Board may not release a list of applicants for licensure.~~

~~14-312.1.~~

~~(A) THIS SECTION MAY NOT BE CONSTRUED TO APPLY TO, OR TO PREVENT THE RENDERING OF, EMERGENCY MEDICAL SERVICES BY A LICENSED PHYSICIAN IN ACCORDANCE WITH § 5-603 OF THE COURTS ARTICLE.~~

~~(B) EACH LICENSED PHYSICIAN SHALL:~~

~~(1) (i) MAINTAIN MEDICAL PROFESSIONAL LIABILITY INSURANCE IN THE AMOUNTS OF:~~

~~1. \$1,000,000 PER OCCURRENCE OR CLAIM; AND~~

~~2. \$3,000,000 PER ANNUAL AGGREGATE; OR~~

~~(ii) ATTEST THAT THE LICENSED PHYSICIAN IS COVERED BY:~~

~~1. THE FEDERAL TORT CLAIMS ACT OR THE MARYLAND TORT CLAIMS ACT; OR~~

~~2. MEDICAL PROFESSIONAL LIABILITY INSURANCE PROVIDED BY THE LICENSED PHYSICIAN'S EMPLOYER IN THE AMOUNTS SPECIFIED IN ITEM (1) OF THIS ITEM;~~

~~(2) HAVE INSURANCE OR COVERAGE DESCRIBED IN ITEM (1)(I) OF THIS SUBSECTION THAT IS APPROPRIATE FOR THE INDIVIDUAL PHYSICIAN'S CIRCUMSTANCES; AND~~

~~(3) COMPLY WITH ANY REGULATIONS ADOPTED BY THE BOARD UNDER SUBSECTION (E) OF THIS SECTION.~~

~~(c) IF THE INSURANCE OR COVERAGE REQUIRED BY SUBSECTION (B) OF THIS SECTION IS CANCELED, THE LICENSED PHYSICIAN SHALL GIVE THE BOARD NOTICE OF THE CANCELLATION AT LEAST 10 BUSINESS DAYS BEFORE THE EFFECTIVE DATE OF THE CANCELLATION.~~

14-312.1.

~~(d) (1) A~~ ON REQUEST OF THE BOARD, A PHYSICIAN WHO REPORTS TO THE BOARD THAT THE PHYSICIAN MAINTAINS MEDICAL PROFESSIONAL LIABILITY INSURANCE FOR PURPOSES OF THE PUBLIC INDIVIDUAL PROFILE MAINTAINED BY THE BOARD UNDER § 14-411.1(B) OF THIS TITLE SHALL PROVIDE THE BOARD WITH VERIFICATION OR OTHER DOCUMENTATION APPROVED BY THE BOARD THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR COVERAGE REQUIRED BY SUBSECTION (B) OF THIS SECTION; WITHIN 5 25 BUSINESS DAYS AFTER THE REQUEST IS MADE PHYSICIAN RECEIVES A REQUEST FROM THE BOARD.

~~(i) ON THE PHYSICIAN'S APPLICATION FOR:~~

~~1. AN INITIAL LICENSE UNDER § 14-309 OF THIS SUBTITLE; AND~~

~~2. RENEWAL OR REINSTATEMENT OF A LICENSE UNDER § 14-316 OR § 14-317 OF THIS SUBTITLE; AND~~

~~(ii) AT ANY OTHER TIME ON REQUEST OF THE BOARD.~~

~~(2) IF A PHYSICIAN FAILS TO SUBMIT VERIFICATION OR DOCUMENTATION AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION OR FAILS TO MAINTAIN THE INSURANCE OR COVERAGE REQUIRED BY SUBSECTION (B) OF THIS SECTION;~~

~~(I) THE BOARD SHALL PROVIDE THE PHYSICIAN WITH NOTICE;~~
AND

~~(II) THE PHYSICIAN SHALL BE SUBJECT TO:~~

~~1. DENIAL OF LICENSURE BY THE BOARD UNDER § 14-205(B)(1)(III) OF THIS TITLE; OR~~

~~2. DISCIPLINE BY A DISCIPLINARY PANEL UNDER § 14-404 OF THIS TITLE.~~

~~(3) IN ACCORDANCE WITH GUIDELINES ADOPTED BY THE BOARD, THE BOARD MAY ENFORCE THIS SUBSECTION BY RANDOMLY AUDITING A PORTION OF LICENSED PHYSICIANS TO DETERMINE COMPLIANCE WITH SUBSECTION (B) OF THIS SECTION.~~

~~(4) IN ADDITION TO ANY OTHER AVAILABLE PENALTY, AN APPLICANT FOR AN INITIAL LICENSE OR FOR RENEWAL OR REINSTATEMENT OF A LICENSE WHO PROVIDES FALSE VERIFICATION OR DOCUMENTATION OF INSURANCE OR COVERAGE SHALL BE SUBJECT TO:~~

~~(I) DENIAL OF LICENSURE BY THE BOARD UNDER § 14-205(B)(1)(III) OF THIS TITLE; OR~~

~~(II) DISCIPLINE BY A DISCIPLINARY PANEL UNDER § 14-404 OF THIS TITLE.~~

~~(E) THE BOARD MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~
~~14-316.~~

~~(e) Before the license expires, the licensee periodically may renew it for an additional term, if the licensee:~~

~~(1) Otherwise is entitled to be licensed;~~

~~(2) PROVIDES THE BOARD WITH VERIFICATION OR DOCUMENTATION THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR COVERAGE REQUIRED BY § 14-312.1 OF THIS SUBTITLE;~~

~~[(2)](3) Pays to the Board a renewal fee set by the Board; and~~

~~[(3)](4) Submits to the Board:~~

~~(i) A renewal application on the form that the Board requires; and~~

~~(ii) Satisfactory evidence of compliance with any continuing education requirements set under this section for license renewal.~~

~~14-317.~~

~~The Board shall reinstate the license of a physician who has failed to renew the license for any reason if the physician:~~

~~(1) Meets the renewal requirements of § 14-316 of this subtitle;~~

~~(2) PROVIDES THE BOARD WITH VERIFICATION OR DOCUMENTATION THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR COVERAGE REQUIRED BY § 14-312.1 OF THIS SUBTITLE;~~

~~[(2)] (3) Pays to the Board a reinstatement fee set by the Board; and~~

~~[(3)] (4) Submits to the Board satisfactory evidence of compliance with the qualifications and requirements established under this title for license reinstatements.~~

~~14-404.~~

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

~~(41) Performs a cosmetic surgical procedure in an office or a facility that is not:~~

~~(i) Accredited by:~~

~~1. The American Association for Accreditation of Ambulatory Surgical Facilities;~~

~~2. The Accreditation Association for Ambulatory Health Care; or~~

~~3. The Joint Commission on the Accreditation of Healthcare Organizations; or~~

~~(ii) Certified to participate in the Medicare program, as enacted by Title XVIII of the Social Security Act; [or]~~

~~(42) Fails to submit to a criminal history records check under § 14-308.1 of this title;~~

~~(43) FAILS TO:~~

~~(i) MAINTAIN THE INSURANCE OR COVERAGE REQUIRED BY § 14-312.1 OF THIS TITLE; OR~~

~~(ii) PROVIDE THE BOARD WITH VERIFICATION OR DOCUMENTATION THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR COVERAGE REQUIRED BY § 14-312.1 OF THIS TITLE; OR~~

~~(44) PROVIDES THE BOARD WITH FALSE VERIFICATION OR DOCUMENTATION THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR COVERAGE REQUIRED BY § 14-312.1 OF THIS TITLE.~~

14-411.1.

(b) The Board shall create and maintain a public individual profile on each licensee that includes the following information:

(6) [Medical] AS REPORTED TO THE BOARD BY THE LICENSEE, education and practice information about the licensee including:

(i) The name of any medical school that the licensee attended and the date on which the licensee graduated from the school;

(ii) A description of any internship and residency training;

(iii) A description of any specialty board certification by a recognized board of the American Board of Medical Specialties or the American Osteopathic Association;

(iv) The name of any hospital where the licensee has medical privileges [as reported to the Board under § 14-413 of this subtitle];

(v) The location of the licensee’s primary practice setting; [and]

(vi) Whether the licensee participates in the Maryland Medical Assistance Program; AND

(VII) WHETHER THE LICENSEE MAINTAINS MEDICAL PROFESSIONAL LIABILITY INSURANCE.

14-508.

(A) EACH LICENSEE PRACTICING MEDICINE IN THE STATE SHALL NOTIFY A PATIENT IN WRITING, ~~AT EACH VISIT,~~ IF:

(1) THE LICENSEE DOES NOT MAINTAIN MEDICAL PROFESSIONAL LIABILITY INSURANCE COVERAGE; OR

(2) THE LICENSEE'S MEDICAL PROFESSIONAL LIABILITY INSURANCE COVERAGE HAS LAPSED FOR ANY PERIOD OF TIME AND THE LICENSEE'S COVERAGE HAS NOT BEEN RENEWED.

(B) THE WRITTEN NOTIFICATION PROVIDED TO THE PATIENT UNDER SUBSECTION (A) OF THIS SECTION MUST BE:

(1) PROVIDED:

(I) AT THE FIRST VISIT BY THE PATIENT DURING ANY PERIOD IN WHICH THE LICENSEE DOES NOT MAINTAIN MEDICAL PROFESSIONAL LIABILITY INSURANCE, UNLESS THE VISIT IS FOR THE PURPOSE OF RECEIVING INCIDENTAL MEDICAL CARE THAT WILL BE RENDERED FREE OF CHARGE; AND

(II) AS PART OF EACH INFORMED CONSENT OBTAINED BEFORE ANY PROCEDURE OR OPERATION DISCUSSED OR OFFERED FOR THE PATIENT'S CONSIDERATION IS PERFORMED;

(2) SIGNED BY THE PATIENT AT THE TIME OF THE PATIENT'S VISIT OR THE INFORMED CONSENT IS SIGNED; AND

~~(2)~~ (3) RETAINED BY THE LICENSEE AS PART OF THE LICENSEE'S PATIENT RECORDS.

(C) EACH LICENSEE PRACTICING MEDICINE IN THE STATE WHO DOES NOT MAINTAIN MEDICAL PROFESSIONAL LIABILITY INSURANCE COVERAGE SHALL POST THIS INFORMATION IN A CONSPICUOUS LOCATION IN THE LICENSEE'S PLACE OF PRACTICE.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Physicians shall develop appropriate language for the notification required under § 14-508 of the Health Occupations Article as enacted by Section 1 of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.