

HOUSE BILL 455

J2, J1, C4
HB 1193/18 – HGO

9lr1891

By: **Delegate Kipke**

Introduced and read first time: January 31, 2019

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Physicians – Discipline – Procedures and Effects**

3 FOR the purpose of requiring a disciplinary panel to obtain a third peer review report from
4 a certain source or dismiss certain complaints against licensed physicians if only one
5 of the two peer review reports makes a certain finding; prohibiting hospitals and
6 related institutions, certain insurers, and certain carriers from taking adverse
7 action, under certain circumstances, against certain physicians based solely on the
8 fact that the physician was placed on probation; and generally relating to the
9 discipline of licensed physicians.

10 BY adding to

11 Article – Health – General
12 Section 19–360.1
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2018 Supplement)

15 BY repealing and reenacting, without amendments,

16 Article – Health Occupations
17 Section 14–401.1(a) and (c)(1) and 14–404(a)(22)
18 Annotated Code of Maryland
19 (2014 Replacement Volume and 2018 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article – Health Occupations
22 Section 14–401.1(c)(2)
23 Annotated Code of Maryland
24 (2014 Replacement Volume and 2018 Supplement)

25 BY repealing and reenacting, without amendments,

26 Article – Insurance
27 Section 15–112(a)(1), (5), (16), and (17)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2017 Replacement Volume and 2018 Supplement)

3 BY adding to
4 Article – Insurance
5 Section 15–112(y)
6 Annotated Code of Maryland
7 (2017 Replacement Volume and 2018 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Insurance
10 Section 19–104
11 Annotated Code of Maryland
12 (2017 Replacement Volume and 2018 Supplement)

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

15 **Article – Health – General**

16 **19–360.1.**

17 **A HOSPITAL OR RELATED INSTITUTION MAY NOT TAKE ADVERSE ACTION**
18 **AGAINST A PHYSICIAN BASED SOLELY ON THE FACT THAT THE PHYSICIAN WAS**
19 **PLACED ON PROBATION FOR A VIOLATION OF A GROUND FOR DISCIPLINE UNDER §**
20 **14–404(A) OF THE HEALTH OCCUPATIONS ARTICLE IF THE PROBATION HAS ENDED.**

21 **Article – Health Occupations**

22 14–401.1.

23 (a) (1) The Board shall perform any necessary preliminary investigation
24 regarding an allegation of grounds for disciplinary or other action brought to the Board’s
25 attention before the allegation is assigned to a disciplinary panel.

26 (2) (i) After the completion of any necessary preliminary investigation
27 under paragraph (1) of this subsection, a complaint shall be assigned to a disciplinary panel.

28 (ii) Subject to the provisions of this section, a disciplinary panel:

29 1. Shall determine the final disposition of a complaint
30 against a physician or an allied health professional; and

31 2. Has the independent authority to make a determination
32 regarding the final disposition of a complaint.

1 (iii) The Board may not vote to approve or disapprove any action
2 taken by a disciplinary panel, including the final disposition of a complaint.

3 (3) A disciplinary panel that is assigned a complaint under paragraph (2)(i)
4 of this subsection may:

5 (i) Conduct any additional investigation into a complaint that is
6 deemed necessary to determine whether a violation of this title or Title 15 of this article
7 has occurred; and

8 (ii) Enter into a consent order with a physician or an allied health
9 professional after conducting a meeting between the disciplinary panel and the physician
10 or allied health professional to discuss any proposed disposition of the complaint.

11 (4) A disciplinary panel that is assigned a complaint against an allied
12 health professional under paragraph (2)(i) of this subsection shall consult with the chair of
13 the appropriate allied health advisory committee, or the chair's designee, before taking
14 disciplinary action against the allied health professional.

15 (5) (i) If a complaint proceeds to a hearing under § 14-405 of this
16 subtitle, § 14-5A-17, § 14-5B-14, § 14-5C-17, § 14-5D-15, § 14-5E-16, or § 14-5F-21 of
17 this title, or § 15-315 of this article, the chair of the disciplinary panel that was assigned
18 the complaint under paragraph (2)(i) of this subsection shall refer the complaint to the other
19 disciplinary panel.

20 (ii) If the complaint proceeds to a hearing and is referred to the other
21 disciplinary panel under subparagraph (i) of this paragraph, the disciplinary panel that
22 was assigned the complaint under paragraph (2)(i) of this subsection, or any of its members,
23 may not:

- 24 1. Continue to handle the complaint;
- 25 2. Participate in any disciplinary proceedings regarding the
26 complaint; or
- 27 3. Determine the final disposition of the complaint.

28 (c) (1) Except as otherwise provided in this subsection, after being assigned a
29 complaint under subsection (a) of this section, the disciplinary panel may:

30 (i) Refer an allegation for further investigation to the entity that
31 has contracted with the Board under subsection (e) of this section;

32 (ii) Take any appropriate and immediate action as necessary; or

33 (iii) Come to an agreement for corrective action with a licensee
34 pursuant to paragraph (4) of this subsection.

1 (2) (i) If, after being assigned a complaint and completing the
 2 preliminary investigation, the disciplinary panel finds that the licensee may have violated
 3 § 14–404(a)(22) of this subtitle, the disciplinary panel shall refer the allegation to the entity
 4 or entities that have contracted with the Board under subsection (e) of this section for
 5 further investigation and physician peer review within the involved medical specialty or
 6 specialties.

7 (ii) 1. A disciplinary panel shall obtain two peer review reports
 8 from the entity or individual with whom the Board contracted under subsection (e) of this
 9 section for each allegation the disciplinary panel refers for peer review.

10 2. IF ONLY ONE OF THE TWO PEER REVIEW REPORTS
 11 OBTAINED UNDER THIS SUBPARAGRAPH FINDS THAT A LICENSEE DID NOT VIOLATE
 12 § 14–404(A)(22) OF THIS SUBTITLE, THE DISCIPLINARY PANEL SHALL:

13 A. VOTE BY A TWO–THIRDS MAJORITY TO OBTAIN A
 14 THIRD PEER REVIEW REPORT FROM THE ENTITY OR INDIVIDUAL WITH WHOM THE
 15 BOARD CONTRACTED UNDER SUBSECTION (E) OF THIS SECTION TO DETERMINE IF
 16 THE LICENSEE VIOLATED § 14–404(A)(22) OF THIS SUBTITLE; OR

17 B. DISMISS THE COMPLAINT.

18 14–404.

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

23 (22) Fails to meet appropriate standards as determined by appropriate peer
 24 review for the delivery of quality medical and surgical care performed in an outpatient
 25 surgical facility, office, hospital, or any other location in this State;

26 **Article – Insurance**

27 15–112.

28 (a) (1) In this section the following words have the meanings indicated.

29 (5) (i) “Carrier” means:

30 1. an insurer;

31 2. a nonprofit health service plan;

1 3. a health maintenance organization;

2 4. a dental plan organization; or

3 5. any other person that provides health benefit plans
4 subject to regulation by the State.

5 (ii) "Carrier" includes an entity that arranges a provider panel for a
6 carrier.

7 (16) "Provider" means a health care practitioner or group of health care
8 practitioners licensed, certified, or otherwise authorized by law to provide health care
9 services.

10 (17) (i) "Provider panel" means the providers that contract either
11 directly or through a subcontracting entity with a carrier to provide health care services to
12 the carrier's enrollees under the carrier's health benefit plan.

13 (ii) "Provider panel" does not include an arrangement in which any
14 provider may participate solely by contracting with the carrier to provide health care
15 services at a discounted fee-for-service rate.

16 **(Y) A CARRIER MAY NOT TAKE ANY ADVERSE ACTION, INCLUDING DENYING**
17 **AN APPLICATION FOR PARTICIPATION OR TERMINATING PARTICIPATION IN A**
18 **PROVIDER PANEL, AGAINST A PROVIDER BASED SOLELY ON THE FACT THAT THE**
19 **PROVIDER WAS PLACED ON PROBATION UNDER § 14-404 OF THE HEALTH**
20 **OCCUPATIONS ARTICLE IF THE PROBATION HAS ENDED.**

21 19-104.

22 (a) Each policy that insures a health care provider against damages due to
23 medical injury arising from providing or failing to provide health care shall contain
24 provisions that:

25 (1) are consistent with the requirements of Title 3, Subtitle 2A of the
26 Courts Article; and

27 (2) authorize the insurer, without restriction, to negotiate and effect a
28 compromise of claims within the limits of the insurer's liability, if the entire amount settled
29 on is to be paid by the insurer.

30 (b) (1) An insurer may make payments to or on behalf of claimants for
31 reasonable hospital and medical costs, loss of wages, and expenses for rehabilitation
32 services and treatment, within the limits of the insurer's liability, before a final disposition
33 of the claim.

34 (2) A payment made under this subsection:

1 (i) is not an admission of liability to or of damages sustained by a
2 claimant; and

3 (ii) does not prejudice the insurer or any other party with respect to
4 any right, claim, or defense.

5 (c) (1) A policy issued or delivered under subsection (a) of this section may
6 include coverage for the defense of a health care provider in a disciplinary hearing arising
7 out of the practice of the health care provider profession if the cost of the included coverage
8 is:

9 (i) itemized in the billing statement, invoice, or declarations page
10 for the policy; and

11 (ii) reported to the Commissioner in a form and manner required by
12 the Commissioner.

13 (2) A policy providing coverage for the defense of a health care provider in
14 a disciplinary hearing arising out of the practice of the health care provider's profession
15 may be offered and priced separately from a policy issued or delivered under subsection (a)
16 of this section.

17 **(D) AN INSURER THAT ISSUES INSURANCE GOVERNED BY THIS SECTION**
18 **MAY NOT TAKE ANY ADVERSE ACTION, INCLUDING DENYING INSURANCE COVERAGE**
19 **OR RAISING PREMIUM RATES, AGAINST A PHYSICIAN BASED SOLELY ON THE FACT**
20 **THAT THE PHYSICIAN WAS PLACED ON PROBATION UNDER § 14-404 OF THE HEALTH**
21 **OCCUPATIONS ARTICLE IF THE PROBATION HAS ENDED.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
23 1, 2019.