

HOUSE BILL 1266

J2, J1

8lr3149
CF SB 950

By: **Delegates Carey, Beidle, Frush, Krimm, Moon, Rose, and Stein**

Introduced and read first time: February 9, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – Treatment of Lyme Disease and Other Tick–Borne**
3 **Diseases – Disciplinary Actions**

4 FOR the purpose of prohibiting a certain health practitioner from being disciplined under
5 certain circumstances solely because of the health practitioner’s diagnostic
6 evaluation, testing, or treatment of Lyme disease or another tick–borne disease in a
7 patient; authorizing a certain disciplinary body to discipline a certain health
8 practitioner if the body makes a certain determination; prohibiting the use of a
9 certain drug, device, biological product, or method from being the basis for a
10 disciplinary action against a certain health practitioner; prohibiting a certain health
11 practitioner from being found to have violated any record–keeping, billing, or other
12 regulatory requirements for acts or omissions that arise under certain
13 circumstances; requiring, except under certain circumstances, that a certain panel
14 of peer reviewers include at least one reviewer with certain training, competence,
15 and experience; and generally relating to disciplinary actions for treatment of Lyme
16 disease and other tick–borne diseases.

17 BY adding to
18 Article – Health Occupations
19 Section 1–224
20 Annotated Code of Maryland
21 (2014 Replacement Volume and 2017 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Health Occupations
24 Section 1–604
25 Annotated Code of Maryland
26 (2014 Replacement Volume and 2017 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health Occupations

1-224.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A HEALTH PRACTITIONER LICENSED UNDER THIS ARTICLE MAY NOT BE DISCIPLINED UNDER THIS ARTICLE SOLELY BECAUSE OF THE HEALTH PRACTITIONER'S DIAGNOSTIC EVALUATION, TESTING, OR TREATMENT OF LYME DISEASE OR ANOTHER TICK-BORNE DISEASE IN A PATIENT IF:

(I) THE DIAGNOSTIC EVALUATION, TESTING, OR TREATMENT IS:

1. INTEGRATIVE;
2. COMPLEMENTARY;
3. ALTERNATIVE;
4. NONTRADITIONAL; OR
5. NONCONVENTIONAL;

(II) THE HEALTH PRACTITIONER DISCLOSES TO THE PATIENT:

1. THAT THE DIAGNOSTIC EVALUATION, TESTING, OR TREATMENT IS:

- A. INTEGRATIVE;
- B. COMPLEMENTARY;
- C. ALTERNATIVE;
- D. NONTRADITIONAL; OR
- E. NONCONVENTIONAL;

2. THE KNOWN RISKS AND BENEFITS OF THE PROPOSED DIAGNOSTIC EVALUATION, TESTING, OR TREATMENT;

3. THE FEDERAL FOOD AND DRUG ADMINISTRATION STATUS OF THE PROPOSED DIAGNOSTIC EVALUATION, TESTING, OR TREATMENT IF

1 THE EVALUATION, TESTING, OR TREATMENT USES A DRUG, DEVICE, OR BIOLOGICAL
2 PRODUCT;

3 4. THAT THE PROPOSED DIAGNOSTIC EVALUATION,
4 TESTING, OR TREATMENT:

5 A. MAY NOT BE WIDELY RECOGNIZED WITHIN THE
6 MEDICAL PROFESSION; OR

7 B. MAY BE SUBJECT TO DISAGREEMENT AMONG
8 QUALIFIED MEDICAL EXPERTS;

9 5. THE HEALTH PRACTITIONER'S EDUCATION,
10 EXPERIENCE, AND CREDENTIALS IN PERFORMING THE PROPOSED DIAGNOSTIC
11 EVALUATION, TESTING, OR TREATMENT; AND

12 6. A. THE MEDICAL SPECIALTIES THAT MAY
13 PROVIDE THE PATIENT WITH OTHER OPTIONS IF THE PATIENT HAS A POTENTIALLY
14 SIGNIFICANT CONDITION AND THE PATIENT HAS NOT YET BEEN PROVIDED WITH A
15 CONVENTIONAL DIAGNOSIS OR TREATMENT BY THE PHYSICIAN OR A SPECIALIST
16 FOR THE PATIENT'S CONDITION; AND

17 B. THE SIGNIFICANT KNOWN RISKS OF DEFERRING
18 WIDELY ACCEPTED TREATMENTS, IF ANY, FOR THE PATIENT'S CONDITION; AND

19 (III) THE HEALTH CARE PRACTITIONER INCLUDES IN THE
20 PATIENT'S MEDICAL RECORD DOCUMENTATION OF THE DISCLOSURE MADE UNDER
21 ITEM (II) OF THIS PARAGRAPH AND ANY WRITTEN CONSENT OF THE PATIENT
22 REGARDING THE DIAGNOSTIC EVALUATION, TESTING, OR TREATMENT.

23 (2) A HEALTH OCCUPATIONS BOARD UNDER THIS ARTICLE MAY
24 DISCIPLINE A HEALTH PRACTITIONER WHO OTHERWISE WOULD BE EXEMPT FROM
25 DISCIPLINE UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE HEALTH
26 OCCUPATIONS BOARD DETERMINES:

27 (I) THAT THE DIAGNOSTIC EVALUATION, TESTING, OR
28 TREATMENT HAS A SIGNIFICANT SAFETY RISK GREATER THAN THE CONVENTIONAL
29 METHODS; AND

30 (II) THAT THE RISK IS NOT OUTWEIGHED BY THE POTENTIAL
31 BENEFITS OF THE EVALUATION, TESTING, OR TREATMENT.

32 (B) THE USE OF A DRUG, DEVICE, BIOLOGICAL PRODUCT, OR METHOD THAT

1 HAS NOT BEEN APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION
2 MAY NOT BE A BASIS FOR A DISCIPLINARY ACTION AGAINST A HEALTH
3 PRACTITIONER WHO IS EXEMPT FROM DISCIPLINE UNDER SUBSECTION (A)(1) OF
4 THIS SECTION.

5 (C) A HEALTH PRACTITIONER WHO IS EXEMPT FROM DISCIPLINE UNDER
6 SUBSECTION (A)(1) OF THIS SECTION MAY NOT BE FOUND TO HAVE VIOLATED ANY
7 RECORD-KEEPING, BILLING, OR OTHER REGULATORY REQUIREMENTS FOR ACTS OR
8 OMISSIONS THAT ARISE FROM PROFESSIONAL DIFFERENCES OF OPINION IF THE
9 HEALTH PRACTITIONER HAS ACTED IN GOOD FAITH TO COMPLY WITH THE INTENT
10 OF THE REQUIREMENTS.

11 1-604.

12 (a) If a statute authorizes a health occupations board to use a system of peer
13 review in standard of care cases and the peer reviewer or peer reviewers determine that
14 there has been a violation of a standard of care, the board shall provide the licensee or
15 certificate holder under investigation with an opportunity to review the final peer review
16 report and provide the board with a written response within 10 business days after the
17 report was sent to the licensee or certificate holder.

18 (b) If a health occupations board receives a written response to a final peer review
19 report, the board shall consider both the report and response before taking any action.

20 (C) (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS
21 SUBSECTION, IF A STATUTE AUTHORIZES A HEALTH OCCUPATIONS BOARD TO USE A
22 SYSTEM OF PEER REVIEW IN STANDARD OF CARE CASES AND THE BOARD USES A
23 PANEL OF PEER REVIEWERS TO DETERMINE WHETHER A LICENSEE OR CERTIFICATE
24 HOLDER HAS VIOLATED THE STANDARD OF CARE IN THE TREATMENT OF A PATIENT
25 WITH LYME DISEASE OR ANOTHER TICK-BORNE DISEASE, THE PANEL SHALL
26 INCLUDE AT LEAST ONE REVIEWER WITH DEMONSTRATED TRAINING, COMPETENCE,
27 AND EXPERIENCE IN THE SAME METHODS USED BY THE LICENSEE OR CERTIFICATE
28 HOLDER UNDER REVIEW.

29 (2) THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION
30 DOES NOT APPLY IF, AFTER A GOOD FAITH INQUIRY, THE HEALTH OCCUPATIONS
31 BOARD FINDS THAT THE METHODS OF THE LICENSEE OR CERTIFICATE HOLDER
32 UNDER REVIEW HAVE NOT BEEN ADOPTED BY:

33 (I) ANY PROFESSIONAL ORGANIZATION;

34 (II) A CATEGORY 1 CONTINUING MEDICAL EDUCATION
35 PROGRAM; OR

1 **(III) ANY OTHER MINORITY COMMUNITY OF PHYSICIANS.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 2018.