

SENATE BILL 942

J2

EMERGENCY BILL

3lr3188

By: **Senator Reilly**

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 17, 2013

CHAPTER _____

1 AN ACT concerning

2 **State Board of Physicians – ~~Licensing Qualifications – Additional Training~~**
3 **~~Exemption~~ Consultation, Qualification for Licensure, License Renewal, and**
4 **Representation to the Public**

5 ~~FOR the purpose of exempting certain applicants for a license to practice medicine in~~
6 ~~the State from a requirement to submit evidence of certain additional clinical~~
7 ~~training after having failed a certain examination a certain number of times;~~
8 ~~making this Act an emergency measure; and generally relating to licensing~~
9 ~~qualifications for physicians.~~

10 FOR the purpose of authorizing certain physicians engaged in certain consultations to
11 practice medicine without a license from the State Board of Physicians under
12 certain circumstances; authorizing certain applicants to qualify for licensure
13 under certain circumstances; requiring the Board to send certain notices and
14 certain data sheets to certain licensees by certain means; making certain
15 stylistic changes; prohibiting certain physicians from making certain
16 representations unless the physician is board certified; defining certain terms;
17 making this Act an emergency measure; and generally relating to the licensure
18 of physicians in the State.

19 BY renumbering

20 Article – Health Occupations

21 Section 14–101(c) through (o), respectively

22 to be Section 14–101(d) through (p), respectively

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 adding to
4 Article – Health Occupations
5 Section 14–101(c), 14–101.1, and 14–302.1
6 Annotated Code of Maryland
7 (2009 Replacement Volume and 2012 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Health Occupations
10 Section 14–302, 14–307, 14–316(b), 14–401(e)(2)(i), 14–503, and 14–5C–06(a)(2)
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2012 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That ~~the Laws of Maryland read as follows~~ Section(s) 14–101(c) through
15 (o), respectively, of Article – Health Occupations of the Annotated Code of Maryland be
16 renumbered to be Section(s) 14–101(d) through (p), respectively.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
18 read as follows:

19 **Article – Health Occupations**

20 14–101.

21 **(C) “BOARD CERTIFIED” MEANS THE PHYSICIAN IS CERTIFIED BY A**
22 **PUBLIC OR PRIVATE BOARD, INCLUDING A MULTIDISCIPLINARY BOARD, AND**
23 **THE CERTIFYING BOARD:**

24 **(1) IS:**

25 **(i) A MEMBER OF THE AMERICAN BOARD OF MEDICAL**
26 **SPECIALTIES; OR**

27 **(ii) AN AMERICAN OSTEOPATHIC ASSOCIATION**
28 **CERTIFYING BOARD;**

29 **(2) HAS BEEN APPROVED BY THE BOARD UNDER § 14–101.1 OF**
30 **THIS SUBTITLE; OR**

31 **(3) REQUIRES THAT, IN ORDER TO BE CERTIFIED, THE**
32 **PHYSICIAN:**

1 (I) COMPLETE A POSTGRADUATE TRAINING PROGRAM
2 THAT:

3 1. PROVIDES COMPLETE TRAINING IN THE
4 SPECIALTY OR SUBSPECIALTY; AND

5 2. IS ACCREDITED BY THE ACCREDITATION
6 COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN
7 OSTEOPATHIC ASSOCIATION; AND

8 (II) BE CERTIFIED BY THE MEMBER BOARD OF THE
9 AMERICAN BOARD OF MEDICAL SPECIALTIES OR THE AMERICAN
10 OSTEOPATHIC ASSOCIATION IN THE TRAINING FIELD.

11 14-101.1.

12 THE BOARD MAY APPROVE A PUBLIC OR PRIVATE BOARD INCLUDING A
13 MULTIDISCIPLINARY BOARD AS A CERTIFYING BOARD ONLY IF THE CERTIFYING
14 BOARD REQUIRES THAT, IN ORDER TO BE CERTIFIED, A PHYSICIAN:

15 (1) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

16 (I) PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR
17 SUBSPECIALTY BEING CERTIFIED; AND

18 (II) IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR
19 GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC
20 ASSOCIATION; AND

21 (2) BE CERTIFIED BY THE AMERICAN BOARD OF MEDICAL
22 SPECIALTIES OR THE AMERICAN OSTEOPATHIC ASSOCIATION IN THE SAME
23 TRAINING FIELD.

24 14-302.

25 Subject to the rules, regulations, and orders of the Board, the following
26 individuals may practice medicine without a license:

27 (1) A medical student or an individual in a postgraduate medical
28 training program that is approved by the Board, while doing the assigned duties at
29 any office of a licensed physician, hospital, clinic, or similar facility;

30 (2) A physician licensed by and residing in another jurisdiction, [while
31 engaging in consultation with a physician licensed in this State;] IF THE PHYSICIAN:

1 **(I) IS ENGAGED IN CONSULTATION WITH A PHYSICIAN**
2 **LICENSED IN THE STATE ABOUT A PARTICULAR PATIENT AND DOES NOT DIRECT**
3 **PATIENT CARE; OR**

4 **(II) MEETS THE REQUIREMENTS OF § 14-302.1 OF THIS**
5 **SUBTITLE;**

6 **(3) A physician employed in the service of the federal government**
7 **while performing the duties incident to that employment;**

8 **(4) A physician who resides in and is authorized to practice medicine**
9 **by any state adjoining this State and whose practice extends into this State, if:**

10 **(i) The physician does not have an office or other regularly**
11 **appointed place in this State to meet patients; and**

12 **(ii) The same privileges are extended to licensed physicians of**
13 **this State by the adjoining state; and**

14 **(5) An individual while under the supervision of a licensed physician**
15 **who has specialty training in psychiatry, and whose specialty training in psychiatry**
16 **has been approved by the Board, if the individual submits an application to the Board**
17 **on or before October 1, 1993, and either:**

18 **(i) 1. Has a master's degree from an accredited college or**
19 **university; and**

20 **2. Has completed a graduate program accepted by the**
21 **Board in a behavioral science that includes 1,000 hours of supervised clinical**
22 **psychotherapy experience; or**

23 **(ii) 1. Has a baccalaureate degree from an accredited college**
24 **or university; and**

25 **2. Has 4,000 hours of supervised clinical experience that**
26 **is approved by the Board.**

27 **14-302.1.**

28 **A PHYSICIAN WHO IS LICENSED AND RESIDES IN ANOTHER JURISDICTION**
29 **MAY PRACTICE MEDICINE WITHOUT A LICENSE WHILE ENGAGED IN CLINICAL**
30 **TRAINING WITH A LICENSED PHYSICIAN IF:**

31 **(1) THE BOARD FINDS, ON APPLICATION BY A HOSPITAL IN THE**
32 **STATE, THAT:**

1 **(I) THE PHYSICIAN POSSESSES A SKILL OR USES A**
2 **PROCEDURE THAT:**

3 **1. IS ADVANCED BEYOND THOSE SKILLS OR**
4 **PROCEDURES NORMALLY TAUGHT OR EXERCISED IN THE HOSPITAL AND IN**
5 **STANDARD MEDICAL EDUCATION OR TRAINING;**

6 **2. COULD NOT BE OTHERWISE CONVENIENTLY**
7 **TAUGHT OR DEMONSTRATED IN STANDARD MEDICAL EDUCATION OR TRAINING**
8 **IN THAT HOSPITAL; AND**

9 **3. IS LIKELY TO BENEFIT MARYLAND PATIENTS IN**
10 **THIS INSTANCE;**

11 **(II) THE DEMONSTRATION OF THE SKILL OR PROCEDURE**
12 **WOULD TAKE NO MORE THAN 14 DAYS;**

13 **(III) A LICENSED PHYSICIAN WHO PRACTICES AT A HOSPITAL**
14 **IN THE STATE HAS CERTIFIED TO THE BOARD THAT THE LICENSED PHYSICIAN**
15 **WILL BE RESPONSIBLE FOR THE MEDICAL CARE PROVIDED BY THAT VISITING**
16 **PHYSICIAN TO PATIENTS IN THE STATE;**

17 **(IV) THE VISITING PHYSICIAN HAS NO HISTORY OF ANY**
18 **MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY, NATION, OR**
19 **ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE**
20 **VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL**
21 **MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;**

22 **(V) THE PHYSICIAN IS COVERED BY MALPRACTICE**
23 **INSURANCE IN THE JURISDICTION IN WHICH THE PHYSICIAN PRACTICES; AND**

24 **(VI) THE HOSPITAL ASSURES THE BOARD THAT THE**
25 **PATIENTS WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE; OR**

26 **(2) THE BOARD FINDS, ON APPLICATION BY A MARYLAND**
27 **HOSPITAL, THAT:**

28 **(I) THE HOSPITAL PROVIDES TRAINING IN A SKILL OR USES**
29 **A PROCEDURE THAT:**

30 **1. IS ADVANCED BEYOND THOSE SKILLS OR**
31 **PROCEDURES NORMALLY TAUGHT OR EXERCISED IN STANDARD MEDICAL**
32 **EDUCATION OR TRAINING;**

1 2. COULD NOT BE OTHERWISE CONVENIENTLY
2 TAUGHT OR DEMONSTRATED IN THE VISITING PHYSICIAN'S PRACTICE; AND

3 3. IS LIKELY TO BENEFIT MARYLAND PATIENTS IN
4 THIS INSTANCE;

5 (II) THE DEMONSTRATION OR EXERCISE OF THE SKILL OR
6 PROCEDURE WILL TAKE NO MORE THAN 14 DAYS;

7 (III) A HOSPITAL PHYSICIAN LICENSED IN THE STATE HAS
8 CERTIFIED TO THE BOARD THAT THE PHYSICIAN WILL BE RESPONSIBLE FOR
9 THE MEDICAL CARE PROVIDED BY THAT VISITING PHYSICIAN TO PATIENTS IN
10 THE STATE;

11 (IV) THE VISITING PHYSICIAN HAS NO HISTORY OF ANY
12 MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY, NATION, OR
13 ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE
14 VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL
15 MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;

16 (V) THE PHYSICIAN IS COVERED BY MALPRACTICE
17 INSURANCE IN THE JURISDICTION WHERE THE PHYSICIAN PRACTICES; AND

18 (VI) THE HOSPITAL ASSURES THE BOARD THAT THE
19 PATIENTS WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE.

20 14-307.

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

23 (b) The applicant shall be of good moral character.

24 (c) The applicant shall be at least 18 years old.

25 (d) Except as provided in § 14-308 of this subtitle, the applicant shall:

26 (1) (i) Have a degree of doctor of medicine from a medical school
27 that is accredited by an accrediting organization that the Board recognizes in its
28 regulations; and

29 (ii) Submit evidence acceptable to the Board of successful
30 completion of 1 year of training in a postgraduate medical training program that is
31 accredited by an accrediting organization that the Board recognizes in its regulations;
32 or

1 (2) (i) Have a degree of doctor of osteopathy from a school of
2 osteopathy in the United States, its territories or possessions, Puerto Rico, or Canada
3 that has standards for graduation equivalent to those established by the American
4 Osteopathic Association; and

5 (ii) Submit evidence acceptable to the Board of successful
6 completion of 1 year of training in a postgraduate medical training program accredited
7 by an accrediting organization that the Board recognizes in its regulations.

8 (e) Except as otherwise provided in this title, the applicant shall pass an
9 examination required by the Board under this subtitle.

10 (f) The applicant shall meet any other qualifications that the Board
11 establishes in its regulations for license applicants.

12 (g) An applicant who has failed the examination or any part of the
13 examination 3 or more times [shall submit evidence of having completed 1 year of
14 additional clinical training in an approved postgraduate training program following
15 the latest failure] **MAY QUALIFY FOR A LICENSE IF THE APPLICANT:**

16 **(1) HAS SUCCESSFULLY COMPLETED 2 OR MORE YEARS OF A**
17 **RESIDENCY OR FELLOWSHIP ACCREDITED BY THE ACCREDITATION COUNCIL**
18 **ON GRADUATE MEDICAL EDUCATION;**

19 **(2) (i) HAS A MINIMUM OF 5 YEARS OF CLINICAL PRACTICE OF**
20 **MEDICINE IN THE UNITED STATES OR IN CANADA, WITH AT LEAST 3 OF THE 5**
21 **YEARS HAVING OCCURRED WITHIN 5 YEARS OF THE DATE OF THE APPLICATION;**

22 **(ii) THE CLINICAL PRACTICE REQUIRED UNDER ITEM (I) OF**
23 **THIS PARAGRAPH OCCURRED UNDER A FULL UNRESTRICTED LICENSE TO**
24 **PRACTICE MEDICINE; AND**

25 **(iii) NO DISCIPLINARY ACTION IS PENDING OR HAS BEEN**
26 **TAKEN AGAINST THE APPLICANT; OR**

27 **(3) IS BOARD CERTIFIED.**

28 (h) (1) The Board shall require as part of its examination or licensing
29 procedures that an applicant for a license to practice medicine demonstrate an oral
30 competency in the English language.

31 (2) Graduation from a recognized English-speaking undergraduate
32 school or high school, including General Education Development (GED), after at least
33 3 years of enrollment, or from a recognized English-speaking professional school is

1 acceptable as proof of proficiency in the oral communication of the English language
2 under this section.

3 (3) By regulation, the Board shall develop a procedure for testing
4 individuals who because of their speech impairment are unable to complete
5 satisfactorily a Board approved standardized test of oral competency.

6 (4) If any disciplinary charges or action that involves a problem with
7 the oral communication of the English language are brought against a licensee under
8 this title, the Board shall require the licensee to take and pass a Board approved
9 standardized test of oral competency.

10 14-316.

11 (b) At least 1 month before the license expires, the Board shall send to the
12 licensee, by **ELECTRONIC OR** first-class mail to the last known **ELECTRONIC OR**
13 **PHYSICAL** address of the licensee:

14 (1) A renewal notice that states:

15 (i) The date on which the current license expires;

16 (ii) The date by which the renewal application must be received
17 by the Board for the renewal to be issued and mailed before the license expires; and

18 (iii) The amount of the renewal fee; and

19 (2) A blank panel data sheet supplied by the Health Care Alternative
20 Dispute Resolution Office.

21 14-401.

22 (e) (2) A peer reviewer shall:

23 (i) Be [Board] **BOARD** certified;

24 14-503.

25 (a) A physician may not represent to the public that the physician is
26 [certified by a public or private board, including a multidisciplinary board, or that the
27 physician is] board certified unless:

28 (1) **THE PHYSICIAN IS BOARD CERTIFIED; AND**

1 [(1)] (2) The physician discloses the full name of the board from
2 which the physician is certified and the name of the specialty or subspecialty in which
3 the physician is certified]; and

4 (2) The certifying board meets one of the following requirements:

5 (i) The certifying board is:

6 1. A member of the American Board of Medical
7 Specialties; or

8 2. An American Osteopathic Association certifying
9 board;

10 (ii) The certifying board has been approved by the Board; or

11 (iii) The certifying board requires that, in order to be certified,
12 the physician:

13 1. Complete a postgraduate training program that:

14 A. Provides complete training in the specialty or
15 subspecialty; and

16 B. Is accredited by the Accreditation Council for
17 Graduate Medical Education or the American Osteopathic Association; and

18 2. Be certified by the member board of the American
19 Board of Medical Specialties or the American Osteopathic Association in the training
20 field.

21 (b) The Board may approve a certifying board under subsection (a)(2)(ii) of
22 this section only if the certifying board requires that, in order to be certified, the
23 physician:

24 (1) Complete a postgraduate training program that:

25 (i) Provides complete training in the specialty or subspecialty
26 being certified; and

27 (ii) Is accredited by the Accreditation Council for Graduate
28 Medical Education or the American Osteopathic Association; and

29 (2) Be certified by the American Board of Medical Specialties or
30 American Osteopathic Association in the same training field].

1 [(c)] (B) A physician may advertise only as permitted by the rules and
 2 regulations of the Board and subject to subsection (a) of this section.

3 14-5C-06.

4 (a) The Committee consists of seven members appointed by the Board as
 5 follows:

6 (2) Three physicians who are [Board] BOARD certified in sleep
 7 medicine:

8 (i) One of whom is a specialist in psychiatry or internal
 9 medicine:

10 (ii) One of whom is a specialist in pulmonary medicine; and

11 (iii) One of whom is a specialist in neurology; and

12 ~~14-307.~~

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

15 ~~(b) The applicant shall be of good moral character.~~

16 ~~(c) The applicant shall be at least 18 years old.~~

17 ~~(d) Except as provided in § 14-308 of this subtitle, the applicant shall:~~

18 ~~(1) (i) Have a degree of doctor of medicine from a medical school~~
 19 ~~that is accredited by an accrediting organization that the Board recognizes in its~~
 20 ~~regulations; and~~

21 ~~(ii) Submit evidence acceptable to the Board of successful~~
 22 ~~completion of 1 year of training in a postgraduate medical training program that is~~
 23 ~~accredited by an accrediting organization that the Board recognizes in its regulations;~~
 24 ~~or~~

25 ~~(2) (i) Have a degree of doctor of osteopathy from a school of~~
 26 ~~osteopathy in the United States, its territories or possessions, Puerto Rico, or Canada~~
 27 ~~that has standards for graduation equivalent to those established by the American~~
 28 ~~Osteopathic Association; and~~

29 ~~(ii) Submit evidence acceptable to the Board of successful~~
 30 ~~completion of 1 year of training in a postgraduate medical training program accredited~~
 31 ~~by an accrediting organization that the Board recognizes in its regulations.~~

1 ~~(e) Except as otherwise provided in this title, the applicant shall pass an~~
2 ~~examination required by the Board under this subtitle.~~

3 ~~(f) The applicant shall meet any other qualifications that the Board~~
4 ~~establishes in its regulations for license applicants.~~

5 ~~(g) (1) [An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
6 ~~SUBSECTION, AN applicant who has failed the examination or any part of the~~
7 ~~examination 3 or more times shall submit evidence of having completed 1 year of~~
8 ~~additional clinical training in an approved postgraduate training program following~~
9 ~~the latest failure.~~

10 ~~(2) THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION DO~~
11 ~~NOT APPLY TO AN APPLICANT WHO:~~

12 ~~(I) HOLDS A VALID LICENSE TO PRACTICE MEDICINE IN~~
13 ~~ANOTHER STATE;~~

14 ~~(II) HAS PRACTICED MEDICINE FOR AT LEAST 8 YEARS~~
15 ~~SINCE THE ISSUANCE OF THE APPLICANT'S INITIAL LICENSE TO PRACTICE~~
16 ~~MEDICINE; AND~~

17 ~~(III) OTHERWISE MEETS THE REQUIREMENTS OF THIS~~
18 ~~SECTION.~~

19 ~~(h) (1) The Board shall require as part of its examination or licensing~~
20 ~~procedures that an applicant for a license to practice medicine demonstrate an oral~~
21 ~~competency in the English language.~~

22 ~~(2) Graduation from a recognized English speaking undergraduate~~
23 ~~school or high school, including General Education Development (GED), after at least~~
24 ~~3 years of enrollment, or from a recognized English speaking professional school is~~
25 ~~acceptable as proof of proficiency in the oral communication of the English language~~
26 ~~under this section.~~

27 ~~(3) By regulation, the Board shall develop a procedure for testing~~
28 ~~individuals who because of their speech impairment are unable to complete~~
29 ~~satisfactorily a Board approved standardized test of oral competency.~~

30 ~~(4) If any disciplinary charges or action that involves a problem with~~
31 ~~the oral communication of the English language are brought against a licensee under~~
32 ~~this title, the Board shall require the licensee to take and pass a Board approved~~
33 ~~standardized test of oral competency.~~

34 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an
35 emergency measure, is necessary for the immediate preservation of the public health

1 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
2 members elected to each of the two Houses of the General Assembly, and shall take
3 effect from the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.