

HOUSE BILL 957

J2, C4

7lr1484
CF SB 195

By: **Delegates Miele and Cluster**

Introduced and read first time: February 6, 2017

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Physicians – Licensure – Liability Coverage**
3 **(Janet’s Law)**

4 FOR the purpose of requiring licensed physicians to maintain certain minimum amounts
5 of professional liability insurance or attest to certain coverage as a condition of
6 licensure and comply with certain regulations; requiring a licensed physician to
7 notify the State Board of Physicians of the cancellation of the insurance or coverage
8 within a certain time period; requiring a physician to provide the Board with certain
9 verification or documentation on a certain application and at any other time on
10 request of the Board; authorizing the Board to adopt certain regulations; authorizing
11 the Board to take certain actions if verification or other documentation of insurance
12 or coverage is not provided as required by certain provisions of this Act; authorizing
13 the Board to conduct certain audits for certain purposes; providing for the
14 construction of certain provisions of this Act; making conforming changes; and
15 generally relating to physicians and liability coverage.

16 BY repealing and reenacting, with amendments,
17 Article – Health Occupations
18 Section 14–205(b)(1), 14–309, 14–316(c), 14–317, and 14–404(a)(41) and (42)
19 Annotated Code of Maryland
20 (2014 Replacement Volume and 2016 Supplement)

21 BY adding to
22 Article – Health Occupations
23 Section 14–312.1 and 14–404(a)(43) and (44)
24 Annotated Code of Maryland
25 (2014 Replacement Volume and 2016 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
27 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

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.

14–309.

(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 (I) 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.

(D) (1) A PHYSICIAN 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:

(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

1 PROVIDES FALSE VERIFICATION OR DOCUMENTATION OF INSURANCE OR COVERAGE
2 SHALL BE SUBJECT TO:

3 (I) DENIAL OF LICENSURE BY THE BOARD UNDER
4 § 14-205(B)(1)(III) OF THIS TITLE; OR

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

7 (E) THE BOARD MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.
8 14-316.

9 (c) Before the license expires, the licensee periodically may renew it for an
10 additional term, if the licensee:

11 (1) Otherwise is entitled to be licensed;

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

15 [(2)] (3) Pays to the Board a renewal fee set by the Board; and

16 [(3)] (4) Submits to the Board:

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

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

20 14-317.

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

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

24 (2) PROVIDES THE BOARD WITH VERIFICATION OR DOCUMENTATION
25 THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR COVERAGE REQUIRED BY
26 § 14-312.1 OF THIS SUBTITLE;

27 [(2)] (3) Pays to the Board a reinstatement fee set by the Board; and

1 [(3)] (4) Submits to the Board satisfactory evidence of compliance with
2 the qualifications and requirements established under this title for license reinstatements.

3 14–404.

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

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

10 (i) Accredited by:

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

13 2. The Accreditation Association for Ambulatory Health
14 Care; or

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

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

19 (42) Fails to submit to a criminal history records check under § 14–308.1 of
20 this title;

21 **(43) FAILS TO:**

22 **(I) MAINTAIN THE INSURANCE OR COVERAGE REQUIRED BY**
23 **§ 14–312.1 OF THIS TITLE; OR**

24 **(II) PROVIDE THE BOARD WITH VERIFICATION OR**
25 **DOCUMENTATION THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR COVERAGE**
26 **REQUIRED BY § 14–312.1 OF THIS TITLE; OR**

27 **(44) PROVIDES THE BOARD WITH FALSE VERIFICATION OR**
28 **DOCUMENTATION THAT THE PHYSICIAN MAINTAINS THE INSURANCE OR COVERAGE**
29 **REQUIRED BY § 14–312.1 OF THIS TITLE.**

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