

**BOARD OF PODIATRIC MEDICAL EXAMINERS
OPEN SESSION MEETING VIA GOOGLE MEET**

AGENDA

May 11, 2023

Location: Google Meet <https://meet.google.com/tck-zqnx-pec>

Join by phone: (US) +1 339-545-2593 PIN: 246498111

A. ORDER OF BUSINESS

- 1. Call to Order- Roll Call**
- 2. COMAR 10.01.14.02.B: Except in instances when a public body expressly invites public testimony, questions, comments, or other forms of public participation, or when public participation is otherwise authorized by law, a member of the public attending an open session may not participate in the session.**
- 3. Approval of minutes from March 09, 2023 meeting** **Tab A**

B. BOARD PRESIDENT'S REPORT

C. EXECUTIVE DIRECTOR'S REPORT

- 1. Update on HB 28- Public Health- Implicit Bias Training and the Office of Minority Health and Health Disparities**

D. OLD BUSINESS:

- 1. Update on Proposed Regulation Compliance with ADA Laws**

E. NEW BUSINESS:

- 1. Federation of Podiatric Medical Boards Federal and State Legislative Updates** **Tab B**
- 2. HB 636: Public Information Act- Inspection of E-Mail Addresses and Telephone Numbers** **Tab C**
- 3. SB 187: Health Occupations- Licenses, Certifications, and** **Tab D**

Registrations- Immigrants Lawful Presence and Identification Numbers

4. Topics Newsletter Highlights-Spring 2023

Tab E

5. NPDB April Highlights

Tab F

6. New Licensee Approval

- a. Olivia Hammond, D.P.M.**
- b. Jared Melman, D.P.M.**
- c. Gina Zigerelli, D. P. M.**
- d. Alexander Lakner, D.P.M**

F. ADJOURNMENT



BOARD OF PODIATRIC MEDICAL EXAMINERS

OPEN SESSION MEETING VIA GOOGLE MEET

PUBLIC MEETING MINUTES

March 09, 2023

Location: Google Meet meet.google.com/hum-pajy-pxa

Join by phone: (US) +1 414-909-5567 PIN: 233566832

The Public Meeting commenced at 1:06pm, opened by the Board President, Dr. H. David Gottlieb.

Roll call was initiated by the Executive Director.

Board members present: Drs. Aparna Duggirala, Bruce Fox, Adam Silverman, and Yvonne Umezurike.

Consumer Members Present: Ms. Frona Kroopnick and Lynne Brecker, RN.

Board staff present: Eva Schwartz, Executive Director; Elizabeth Kohlhepp, Deputy Director; and Kiana Nicholson, Licensing Manager.

Office of the Attorney General: Kristen Fon Lim, AAG, Board Counsel.

Representing MPMA: Dr. Jay LeBow, MPMA Member. Mr. Richard Bloch, Executive Director.

Guests: Zakiyyah Holmes, MDH and Kiana Trent, DPM.

Dr. Gottlieb cited COMAR 10.01.14.02.B: "Except in instances when a public body expressly invites public testimony, questions, comments, or other forms of public participation, or when public participation is otherwise authorized by law, a member of the public attending an open session may not participate in the session."

A. MINUTES

- 1. Approval of minutes from the February 09, 2023, meeting.**

The meeting minutes from the February 09, 2023, public meeting, were approved unanimously, as submitted.

B. BOARD PRESIDENT'S REPORT

A Report by the Board President was not submitted.

C. EXECUTIVE DIRECTOR'S REPORT

1. American Podiatric Medical Association, Inc. Code of Ethics

Ms. Schwartz shared with the Board a copy of the American Podiatric Medical Association, Inc.'s Code of Ethics. The document was shared for informational purposes with intentions to refresh and reinforce what is and what is not acceptable with COMAR regulations.

Dr. Gottlieb posed the question if the APMA Code of Ethics is explicitly listed within the Maryland Code of Regulations. Mr. Bloch, MPMA Executive Director, stated that the regulations are through the Board and the Code of Ethics is only applicable to APMA members. Ms. Lim reiterated that the Board's statutes address Standards of Care which can be extrapolated to include the APMA Code of Ethics, however there are no explicit bonding comments.

Additionally, Ms. Schwartz shared her experience of attending the Podiatric Federation Meeting. Ms. Schwartz shared that the Federation is evaluating how to proceed with reinstating a location for the in-person portion of the Part II Board exam. The Federation is hopeful to reinstate the in-person portion of CPMLE Part II, by 2024.

D. OLD BUSINESS

1. Update on Proposed Regulation Compliance with ADA Laws

Ms. Lim discussed with the Board adding explicit anti-discriminatory and ADA language to the Boards regulations. The proposed regulation was as follows:

The licensee may not:

(5) Practice, condone, facilitate, or collaborate with discrimination on the basis of race, gender, sexual orientation, age, religion, national origin, socioeconomic status, disability, or any other basis proscribed by law;

Ms. Lim suggested that the proposed regulations could be placed within the Boards current COMAR - Code of Ethics as section 10.40.04.04 of the existing regulations. The Board voted to move forward with the proposed regulation.

E. NEW BUSINESS

1. HB 906- Occupational Licensing Certification Criminal History- Prohibited Disclosures and Predetermination Review Process

A copy of HB 906- Occupational Licensing Certification Criminal History- Prohibited Disclosures and Predetermination Review Process was shared with the Board. Ms. Schwartz shared that a committee hearing will be in session today, March 9, 2023, to address how the Boards will handle prospective licensees with criminal history offenses. The Board's drafted a unified letter discussing issues that could arise from the draft Bill for the Board's, which the Board of Podiatry signed on to. Dr. Arpana Singh Verma-

President of the Board of Dentistry, is currently attending the session to explain the position of the Boards.

2. Update on HB 28- Public Health- Implicit Bias Training and the Office of Minority Health and Health Disparities- Presented by Katina R. Nazzario-Joy- MDH

Ms. Katina R. Nazzario-Joy was invited to attend the meeting and discuss what would be expected with the new update on HB 28. Ms. Nazzario-Joy was unable to attend the meeting, therefore, Ms. Schwartz discussed the list of approved implicit bias courses which are listed on the Department of Minority Health and Health Disparities website found at <https://health.maryland.gov/mhhd/pages/implicit-bias-resources.aspx>. Ms. Schwartz reiterated that implicit bias and diversity courses are different. Additionally, Ms. Schwartz mentioned the accessibility of courses via the APMA, MPMA, and Board's websites.

3. H.R. 7939 Veterans Auto and Education Improvement Act of 2022

A copy of H.R. 7939 Veterans Auto and Education Improvement Act of 2022 was shared with the Board. The Bill proposes that a Veteran or a Veterans Spouse, who is currently licensed appropriately in a different State, is eligible to receive a temporary license permit to work within the State of Maryland. There are many concerns surrounding the vetting process of the applications, fees associated in issuing temporary licenses, and the difference of Scope of Practice and Prescribing within the States. Currently, the Board does not allow temporary licenses per their COMAR. The Board voted in favor of putting the discussion of H.R. 7939 on hold until more information becomes available.

4. Specialty Certifying Boards in Podiatric Medicine

Ms. Kohlhepp shared with the Board a copy of Specialty Certifying Boards in Podiatric Medicine. Ms. Kohlhepp reported that at this time the American Board of Podiatric Medicine and the American Board of Foot and Ankle Surgery are the only two Boards eligible for podiatrists to use as a title for Board Certification. For a podiatrist to become certified by either Board, they must graduate from a CPME accredited college, have three years of an approved CPME residency, and must go through an extensive exam process with each Board. After completion of those three requirements, a podiatrist can then use the Specialty Board Certification behind their name.

5. Federation of Podiatric Medical Boards Meeting

Dr. Duggirala reported on her experience at the Federation of Podiatric Medical Boards Meeting stating that it was very informative and well organized.

Additionally, it was discussed that at the Federation meeting the topic of the process for awarding CMEs for live and/or recorded virtual meetings was discussed. There are some concerns regarding the authentication of recording modules for later review.

6. Discussion on Licensing Fee Structure

Ms. Schwartz brought to the Board's attention the structure of how the Board currently is accepting new license application payments based on whether the applicant submits their application in January or July in year one or year two of the licensing cycle. Ms. Schwartz expressed concern that the Board's auditors may feel there is a disconnect in linking the fees and license issuance together and would like to discuss ways to make it clearer. The Board voted to move discussion of licensing fee structure to the next Public meeting.

7. New Licensee Approval

a. James Chung, D.P.M.

The above identified licensure candidate was approved unanimously for the issuance of a full Maryland license.

b. Coralia Terol, D.P.M.

The above identified licensure candidate was approved for the issuance of a full Maryland license with six votes in favor. One Board member abstained from the vote.

c. Jeremy Dublon, D.P.M.

The above identified licensure candidate was approved unanimously for the issuance of a full Maryland license.

d. Nicholas Fifelski, D.P.M.

The above identified licensure candidate was approved unanimously for the issuance of a full Maryland license.

e. Brandon Blanken, D.P.M.

The above identified licensure candidate was approved unanimously for the issuance of a full Maryland license.

8. NPDB March Newsletter- Is It Reportable?

A copy of the NBDB March Newsletter- Is It Reportable was shared with the Board for informational purposes. Ms. Schwartz discussed an insert from the newsletter pertaining to the reposting of Podiatric Public Orders, and the impact of reporting outcomes to NPDB.

F. OTHER

Dr. Umezurike inquired about the Medicare sequestration of income amendment. Mr. Bloch stated that there were no updates at the time. Ms. Lim stated that this was not a Board issue.

G. ADJOURNMENT

With no further business, the Public Session of the Board meeting concluded at 2:10 PM.

Respectfully submitted by Eva Schwartz, Executive Director, Signature and date__

and Elizabeth Kohlhepp, Deputy Executive Director, Signature and date__

Signature by Frona Kroopnick, Board Secretary/Treasurer:___

Please note the following federal and state legislative updates prepared for you by the Federation of Podiatric Medical Boards:



FEDERAL

Medication Access and Training Expansion Act / MATE Act: New Training Requirements for DEA Licensure Renewal or New Applicants

The MATE Act, originally introduced in the 117th Congress, was included as a last-minute addition to the end-of-year Omnibus package passed late in December 2022. The legislation specifies one-time training requirements for any Drug Enforcement Administration (DEA)-registered practitioners on the treatment and management of patients with opioid or other substance use disorders.

Our colleagues at the American Podiatric Medical Association (APMA) are working to address this issue: <https://www.apma.org/News/NewsDetail.cfm?ItemNumber=53890>

Please note the following from APMA's update:

- APMA Legislative Advocacy staff has set a meeting with Rep. Lori Trahan's (MA) staff on **April 11** to discuss APMA's request for a technical correction.
- APMA is also working to clarify what previous trainings a DPM may have received recently might apply, given the FAQ in this letter sent to DEA-registered practitioners on March 27, 2023.

H.R.7939 - Veterans Auto and Education Improvement Act of 2022: Portability of Professional Licenses of Members of the Uniformed Services and Their Spouses

The Student Veteran Emergency Relief Act (H.R. 7939) became law on January 5, 2023 and includes a section on military license portability (Sec. 19) that would make the professional licenses, than a law license, of servicemembers, and their spouse, if they have to relocate to a different jurisdiction than which they are licensed due to military orders, so long as the servicemember or spouse:

- (1) provides a copy of such military orders to the licensing authority in the jurisdiction in -----which the new residency is located;
- (2) remains in good standing with—
 - (A) the licensing authority that issued the covered license; and
 - (B) every other licensing authority that has issued to the servicemember or the spouse of a servicemember a license valid at a similar scope of practice and in the discipline applied in the jurisdiction of such licensing authority;
- (3) submits to the authority of the licensing authority in the new jurisdiction for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements.”

Additionally, licensees must have been actively practicing their profession within the last two years.

STATE

Arizona Senate Bill 1078 (2023): Podiatric Medical Assistants; Radiation; Exemption

The legislation provides an exemption regarding the examination requirements for podiatric medical assistants to permit taking a radiology course that is specific to the practice of podiatric medicine. It was signed by the governor on March 28, 2023.

NOTE: FPMB was a resource for this legislation via licensure and regulation data collected and reported regarding radiology, as well as discussions on this specific topic facilitated by FPMB via interactive meetings with Member Boards.

California Assembly Bill 826 (2023): Modernization of DPM License Renewals

The proposed legislation would remove outdated licensing renewal requirements imposed on DPMs while retaining the requirements to complete 50 CEs, remain free from disciplinary action, and pay renewal fees. As of March 28, 2023, the legislation received "do pass" and "place on Consent Calendar" recommendations to the Committee on Appropriations.

NOTE: FPMB was a resource for this legislation via licensure and regulation data collected and reported regarding licensure renewal and occupational licensure reform. FPMB presented this data at a board meeting of the Podiatric Medical Board of California and addressed related questions.

Florida Senate Bill 1364: Interstate-Mobility and Universal-Recognition Occupational Licensing Act

The proposed legislation would require certain agencies, boards (including podiatry), departments, and other governmental entities to issue an occupational license or a government certification to applicants under certain circumstances, as well as authorize the governor to take certain actions relating to occupational licenses during declared states of emergency. As of March 23, 2023, the legislation is pending reference review and is in the Appropriations Committee on Agriculture, Environment, and General Government.

Iowa House File 635: Allow DPM Residents to Obtain a State License Upon Completing Second Year of Residency

The proposed legislation would allow a DPM resident to obtain a state license upon completing their second year of residency with the requirement to provide proof of completion of the third year as part of their initial license renewal. As of March 29, 2023, the legislation was passed in the House, and received a "recommend passage" from the Senate committee.

NOTE: FPMB was a resource for this legislation via licensure data collected and reported regarding initial licensure.

Nevada Executive Order 2023-004: Phasing Out of Licensure if Occupation/Profession Not Licensed in 26 or More States

Section 3: "To the extent an occupation or profession is currently licensed in Nevada but is not subject to licensure requirements in the majority of states (26 or more), licensure shall be presumed to be unnecessary and that board shall provide a recommendation for phasing out such a licensing requirement by July 1, 2023."

Although podiatry is licensed in all states, related occupations/professions (i.e., podiatric medical assistants, podiatric radiographers, etc.) are not.

New Hampshire House Bill 2: Board of Medicine Shall be Responsible for Regulating the Practice of Podiatric Medicine

The proposed legislation would eliminate the New Hampshire Board of Podiatry and make the New Hampshire Board of Medicine responsible for regulating the practice of podiatric medicine. The Board of Medicine would include one member selected to represent podiatrists. As of March 30, 2023, the legislation received an "ought to pass with amendment" and "inexpedient to legislate" recommendations from the House committee.

New Hampshire Bulletin (3/28/2023):

"Dr. Jennifer Sartori, chair of the Board of Podiatry, cautioned against merging her board with the Board of Medicine and Medical Review subcommittees. The podiatry board has been in existence for over 50 years, she said.

'Podiatrists have unique challenges and concerns that are distinct from those of other medical professionals, and we need a dedicated board that can address these issues,' Sartori told the committee. 'We need a clear and accessible process for licensure and regulation and discipline. And I think that will become more difficult for podiatrists to navigate through if it is merged with the Board of Medicine.'"

NOTE: FPMB has been a resource for the New Hampshire Board of Podiatry via reporting the structure (separate vs. multidisciplinary) of each podiatric medical board in the U.S., as well as a key metric demonstrating the New Hampshire Board of Podiatry's efficiency.

New Mexico House Bill 2: New Mexico Board of Podiatry Transferred to Podiatry Advisory Committee (New Mexico Medical Board)

The legislation amends the podiatry act; changes reciprocity requirements; requires licensure renewal after two years; removes the taxation registration number requirement as a condition of renewal; adds circumstance for postgraduate education waiver; and provides a new sunset date for the podiatry act. Further, all functions, personnel, records, equipment, supplies and other property of the board of podiatry shall be transferred to the podiatry advisory committee; and all money and appropriations of the board of podiatry shall be transferred to the New Mexico medical board fund. It was signed by the governor on April 5, 2023.



HOUSE BILL 636

P3

3lr2353

By: **Delegate Guzzone**

Introduced and read first time: February 3, 2023

Assigned to: Health and Government Operations

Committee Report: Favorable

House action: Adopted

Read second time: March 5, 2023

CHAPTER _____

1 AN ACT concerning

2 **Public Information Act – Inspection of E-Mail Addresses and Telephone**
3 **Numbers**

4 FOR the purpose of altering the definition of “personal information” for purposes of certain
5 provisions of the Public Information Act to include an individual’s e-mail address;
6 requiring certain custodians to deny inspection of certain records of certain e-mail
7 addresses and certain telephone numbers **except under certain**
8 **circumstances; requiring certain custodians to allow inspection of certain**
9 **records of business e-mail addresses under the same circumstances as**
10 **inspection of certain records of business addresses and telephone numbers;**
11 and generally relating to inspection of e-mail addresses and telephone numbers
under the Public Information Act.

12 BY repealing and reenacting, without amendments,
13 Article – General Provisions
14 Section 4–101(a)
15 Annotated Code of Maryland
16 (2019 Replacement Volume and 2022 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – General Provisions
19 Section 4–101(h), 4–313, and 4–331 through 4–333
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2022 Supplement)

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

3 **Article – General Provisions**

4 4–101.

5 (a) In this title the following words have the meanings indicated.

6 (h) (1) “Personal information” means information that identifies an individual.

7 (2) Except as provided in § 4–355 of this title, “personal information”
8 includes an individual’s:

9 (i) name;

10 (ii) address;

11 **(III) E–MAIL ADDRESS;**

12 **[(iii)] (IV) driver’s license number or any other identification**
13 **number;**

14 **[(iv)] (V) medical or disability information;**

15 **[(v)] (VI) photograph or computer–generated image;**

16 **[(vi)] (VII) Social Security number; and**

17 **[(vii)] (VIII) telephone number.**

18 (3) “Personal information” does not include an individual’s:

19 (i) driver’s status;

20 (ii) driving offenses;

21 (iii) five–digit zip code; or

22 (iv) information on vehicular accidents.

23 4–313.

24 (a) Subject to subsections (b) and (c) of this section, a custodian shall deny
25 inspection of a school district record about the home address, [home] telephone number,

1 **PERSONAL E-MAIL ADDRESS**, biography, family, physiology, religion, academic
2 achievement, or physical or mental ability of a student.

3 (b) A custodian shall allow inspection by:

4 (1) the person in interest; or

5 (2) an elected or appointed official who supervises the student.

6 (c) (1) A custodian may allow inspection of the home address [or home],
7 telephone number, **OR PERSONAL E-MAIL ADDRESS** of a student of a public school by:

8 (i) an organization of parents, teachers, students, or former
9 students, or any combination of those groups, of the school;

10 (ii) an organization or a force of the military;

11 (iii) a person engaged by a school or board of education to confirm a
12 home address or home telephone number;

13 (iv) a representative of a community college in the State; or

14 (v) the Maryland Higher Education Commission.

15 (2) The Maryland Higher Education Commission or a person, an
16 organization, or a community college that obtains information under this subsection may
17 not:

18 (i) use this information for a commercial purpose; or

19 (ii) disclose this information to another person, organization, or
20 community college.

21 (3) When a custodian allows inspection under this subsection, the
22 custodian shall notify the Maryland Higher Education Commission, person, organization,
23 or community college of the prohibitions under paragraph (2) of this subsection regarding
24 use and disclosure of this information.

25 4-331.

26 Subject to § 21-504 of the State Personnel and Pensions Article, a custodian shall
27 deny inspection of the part of a public record that contains the home address [or],
28 **PERSONAL** telephone number, **OR PERSONAL E-MAIL ADDRESS** of an employee of a unit
29 or an instrumentality of the State or of a political subdivision unless:

30 (1) the employee gives permission for the inspection; or

1 (2) the unit or instrumentality that employs the individual determines that
2 inspection is needed to protect the public interest.

3 4-332.

4 (a) Subject to subsections (b) through (e) of this section, a custodian shall deny
5 inspection of the part of a public record that contains information about the application and
6 commission of a person as a notary public.

7 (b) A custodian shall allow inspection of the part of a public record that gives:

8 (1) the name of the notary public;

9 (2) the notary public's business address or, if a business address is not
10 provided to the custodian by the notary public, the notary public's home address;

11 (3) the notary public's business telephone number or, if a business
12 telephone number is not provided to the custodian by the notary public, the notary public's
13 home telephone number;

14 **(4) THE NOTARY PUBLIC'S BUSINESS E-MAIL ADDRESS OR, IF A**
15 **BUSINESS E-MAIL ADDRESS IS NOT PROVIDED TO THE CUSTODIAN BY THE NOTARY**
16 **PUBLIC, THE NOTARY PUBLIC'S PERSONAL E-MAIL ADDRESS;**

17 **[(4)] (5)** the issue and expiration dates of the notary public's commission;

18 **[(5)] (6)** the date the person took the oath of office as a notary public; or

19 **[(6)] (7)** the signature of the notary public.

20 (c) A custodian may allow inspection of other information about a notary public
21 if the custodian finds a compelling public purpose.

22 (d) A custodian may deny inspection of a record by a notary public or any other
23 person in interest only to the extent that the inspection could:

24 (1) interfere with a valid and proper law enforcement proceeding;

25 (2) deprive another person of a right to a fair trial or an impartial
26 adjudication;

27 (3) constitute an unwarranted invasion of personal privacy;

28 (4) disclose the identity of a confidential source;

29 (5) disclose an investigative technique or procedure;

1 (6) prejudice an investigation; or

2 (7) endanger the life or physical safety of an individual.

3 (e) A custodian who sells lists of notaries public shall omit from the lists the name
4 of any notary public, on written request of the notary public.

5 4-333.

6 (a) Subject to subsections (b) through (d) of this section, a custodian shall deny
7 inspection of the part of a public record that contains information about the licensing of an
8 individual in an occupation or a profession.

9 (b) A custodian shall allow inspection of the part of a public record that gives:

10 (1) the name of the licensee;

11 (2) the business address of the licensee or, if the business address is not
12 available, the home address of the licensee after the custodian redacts any information that
13 identifies the location as the home address of an individual with a disability as defined in
14 § 20-701 of the State Government Article;

15 (3) the business telephone number of the licensee;

16 (4) **THE BUSINESS E-MAIL ADDRESS OF THE LICENSEE, IF THE E-MAIL**
17 **ADDRESS IS IDENTIFIED BY THE LICENSEE AS A BUSINESS E-MAIL ADDRESS;** Note-sjo

18 ~~[(4)]~~ (5) the educational and occupational background of the licensee;

19 ~~[(5)]~~ (6) the professional qualifications of the licensee;

20 ~~[(6)]~~ (7) any orders and findings that result from formal disciplinary
21 actions; and

22 ~~[(7)]~~ (8) any evidence that has been provided to the custodian to meet the
23 requirements of a statute as to financial responsibility.

24 (c) A custodian may allow inspection of other information about a licensee if:

25 (1) the custodian finds a compelling public purpose; and

26 (2) the rules or regulations of the official custodian allow the inspection.

27 (d) Except as otherwise provided by this section or other law, a custodian shall
28 allow inspection by the person in interest.

1 (e) A custodian who sells lists of licensees shall omit from the lists the name of
2 any licensee, on written request of the licensee.

3 SECTION 2. AND BE IT FURTHER ENACTED, That **this Act shall take effect**
4 October 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.



SENATE BILL 187

C2, J2
SB 523/22 – EHE

3lr0374
CF HB 454

By: **Senator Kagan**

Introduced and read first time: January 20, 2023

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 10, 2023

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations – Licenses, Certificates, and Registrations – ~~Immigrants~~**
3 **Lawful Presence and Identification Numbers**

4 FOR the purpose of prohibiting a health occupations board from denying a license,
5 certification, or registration to an immigrant if the individual meets certain
6 requirements requiring that an applicant provide proof that the applicant is lawfully
7 present in the United States or have a Social Security number or Individual
8 Taxpayer Identification Number as a condition for licensure, certification, or
9 registration; requiring each health occupations board to require each applicant for a
10 license to disclose the Social Security number or Individual Taxpayer Identification
11 Number of the applicant ~~and~~ or, as permitted under federal law, provide alternative
12 documentation, record the number ~~on~~ or alternative documentation in the
13 application file, and include certain information in a list provided to the Department
14 of Assessments and Taxation; and generally relating to ~~applications for~~ health
15 occupations licenses, certifications, ~~or~~ and registrations ~~by immigrants.~~

16 BY repealing and reenacting, without amendments,
17 Article – Family Law
18 Section 10–119.3(a) and (c)(1)
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2022 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Family Law
23 Section 10–119.3(b), (c)(2), and (d)(1)

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 (2019 Replacement Volume and 2022 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Health Occupations
5 Section 1–210
6 Annotated Code of Maryland
7 (2021 Replacement Volume and 2022 Supplement)

8 BY adding to
9 Article – Health Occupations
10 Section 1–227
11 Annotated Code of Maryland
12 (2021 Replacement Volume and 2022 Supplement)

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

15 **Article – Family Law**

16 10–119.3.

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

18 (2) “License” means any license, certificate, registration, permit, or other
19 authorization that:

20 (i) is issued by a licensing authority;

21 (ii) is subject to suspension, revocation, forfeiture, or termination by
22 a licensing authority; and

23 (iii) is necessary for an individual to practice or engage in:

24 1. a particular business, occupation, or profession; or

25 2. recreational hunting or fishing.

26 (3) (i) “Licensing authority” means a department, unit of a department,
27 commission, board, office, or court of the State.

28 (ii) “Licensing authority” includes:

29 1. the Maryland Department of Labor;

30 2. the Maryland Department of Health;

- 1 3. the Department of Human Services;
- 2 4. the Department of Transportation;
- 3 5. the Department of the Environment;
- 4 6. the Comptroller of the Treasury;
- 5 7. the Department of Agriculture;
- 6 8. the Maryland Insurance Administration;
- 7 9. the Public Service Commission;
- 8 10. the Secretary of State;
- 9 11. the State Department of Education;
- 10 12. the Department of Natural Resources;
- 11 13. the Office of the Attorney General;
- 12 14. the clerks of the court that are authorized to issue a license
13 or certificate for professional services or recreational uses; and
- 14 15. the Court of Appeals.

15 (b) (1) Except as provided in [paragraph] **PARAGRAPHS (2) AND (3)** of this
16 subsection, a licensing authority shall:

17 (i) require each applicant for a license to disclose the Social Security
18 number of the applicant; and

19 (ii) record the applicant's Social Security number on the application.

20 (2) The Department of Natural Resources shall:

21 (i) require an applicant for a recreational hunting or fishing license
22 to disclose only the last four digits of the Social Security number of the applicant instead of
23 the full Social Security number; and

24 (ii) record the applicant's partial Social Security number on the
25 application.

26 **(3) EACH HEALTH OCCUPATIONS BOARD SHALL:**

27 **(I) REQUIRE EACH APPLICANT FOR A LICENSE TO ~~DISCLOSE:~~**

1 **1. DISCLOSE THE SOCIAL SECURITY NUMBER OR**
 2 **INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER OF THE APPLICANT; OR**

3 **2. PROVIDE ALTERNATIVE DOCUMENTATION AS**
 4 **PERMITTED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER**
 5 **SECTION 466(A)(13) OF THE SOCIAL SECURITY ACT; AND**

6 **(II) RECORD THE APPLICANT'S SOCIAL SECURITY NUMBER OR,**
 7 **INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER OR, OR ALTERNATIVE**
 8 **DOCUMENTATION PROVIDED UNDER ITEM (I) OF THIS PARAGRAPH IN THE**
 9 **APPLICATION FILE.**

10 (c) (1) To carry out its responsibility under State and federal law, the
 11 Administration may request from a licensing authority information concerning any obligor
 12 in arrears in paying child support through a support enforcement agency.

13 (2) A request for information by the Administration under paragraph (1) of
 14 this subsection:

15 (i) shall contain:

16 1. the full name of the obligor; and

17 2. **A.** the Social Security number or, as appropriate, the
 18 partial Social Security number ~~OR~~ **OF THE OBLIGOR, IF KNOWN; OR**

19 **B.** **THE INDIVIDUAL TAXPAYER IDENTIFICATION**
 20 **NUMBER** of the obligor, **IF KNOWN**; and

21 (ii) may be transmitted to a licensing authority using an electronic
 22 format.

23 (d) (1) Upon receipt of a request for information under subsection (c) of this
 24 section, a licensing authority shall submit the following information to the Administration
 25 with respect to each obligor who is licensed by, or has applied for a license from, the
 26 licensing authority:

27 (i) the full name of the obligor;

28 (ii) the address of the obligor, if known;

29 (iii) **IF KNOWN:**

30 **1.** the Social Security number or, as appropriate, the partial
 31 Social Security number ~~OR~~ **OF THE OBLIGOR; OR**

1 **2. THE INDIVIDUAL TAXPAYER IDENTIFICATION**
 2 **NUMBER** of the obligor, ~~if known~~; and

3 (iv) a description of the license held by the obligor.

4 **Article – Health Occupations**

5 1–210.

6 (a) By August 31 of each year, each health [occupation] OCCUPATIONS board
 7 authorized to issue a license or certificate under this article shall provide to the Department
 8 of Assessments and Taxation a list of persons issued licenses or certificates under this
 9 article during the previous fiscal year, to assist the Department of Assessments and
 10 Taxation in identifying new businesses within the State.

11 (b) The list provided under this section shall:

12 (1) Be provided free of charge; and

13 (2) Include, for each person on the list:

14 (i) The name and mailing address of the person; and

15 (ii) 1. The federal tax identification number of the person, [or.]
 16 if KNOWN; OR

17 2. IF the person does not have a federal tax identification
 18 number, the Social Security number of the person, IF KNOWN.

19 1–227.

20 ~~(A) IN THIS SECTION, “IMMIGRANT” MEANS AN INDIVIDUAL:~~

21 ~~(1) WHOSE COUNTRY OF ORIGIN IS A COUNTRY OTHER THAN THE~~
 22 ~~UNITED STATES;~~

23 ~~(2) WHO IS NOT A CITIZEN OF THE UNITED STATES; AND~~

24 ~~(3) WHO IS A RESIDENT OF THE STATE.~~

25 ~~(B) A HEALTH OCCUPATIONS BOARD MAY NOT DENY A LICENSE,~~
 26 ~~CERTIFICATION, OR REGISTRATION TO AN IMMIGRANT IF THE INDIVIDUAL~~
 27 ~~OTHERWISE MEETS ALL EDUCATIONAL, TRAINING, OR PROFESSIONAL~~

1 REQUIREMENTS REQUIRE AS A CONDITION FOR LICENSURE, CERTIFICATION, OR
2 REGISTRATION THAT AN APPLICANT:

3 (1) PROVIDE PROOF THAT THE APPLICANT IS LAWFULLY PRESENT IN
4 THE UNITED STATES, AS ALLOWED UNDER 8 U.S.C. § 1621; OR

5 (2) HAVE A SOCIAL SECURITY NUMBER OR INDIVIDUAL TAXPAYER
6 IDENTIFICATION NUMBER.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.



A quarterly
newsletter
published in the
interests of the
health care industry
in the Mid-Atlantic
region

Topics

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Did You Know?

Maryland's Aggressive Climate Legislation's Impact on Providers

Every health care provider rents or owns the space in which they treat patients. Therefore, every Maryland health care provider will be significantly impacted by Maryland's very aggressive climate legislation.

In 2022, the Maryland General Assembly passed The Climate Solutions Now Act (CSNA), which is one of the most ambitious examples of climate change legislation in the country. The CSNA is broad and will influence decisions in almost every sector of our daily lives. Doctors, health care providers, and building owners will need to stay engaged with the upcoming developments to understand how exactly the CSNA will impact the health care industry.

At a high level, the CSNA calls for Maryland to reduce greenhouse gases by

60% (compared to a 2006 baseline) by 2031, and for Maryland to reach net-zero emissions by the year 2045. No other state has required a 60% reduction by 2031 in legislation.

More specifically, the CSNA will implement these goals through regulating transportation and new and existing buildings, as well as several other means. For example, Maryland is following California's lead in adopting the Advanced Clean Cars II rule. This rule will ban the sale of new gasoline-only powered cars in Maryland by 2035.

While the ban on the sale of new gasoline-only powered cars in Maryland by 2035 will grab most headlines, there are also changes coming that will require *complete electrification of new, and eventually existing buildings.*

continued on page 2



A. What We Know

The Building Codes Administration and Maryland Public Service Commission (PSC) are providing recommendations that will require new buildings to rely solely on electricity for internal use (as opposed to fossil fuels), for example, for heating. The PSC is required to provide these recommendations to the Maryland General Assembly by September 30, 2023. The earliest these recommendations will be implemented is 2024, but there are currently more questions than answers.

For existing buildings, the Maryland Department of the Environment is scheduled to adopt regulations for “covered buildings” in the summer of 2023. These regulations will require that commercial buildings with a gross floor area (excluding parking garages) of 35,000 sq. ft. or more significantly reduce their “Direct Greenhouse Gas Emissions.” Direct Greenhouse Gas Emissions are emissions produced on site.

Specifically, each covered building will be required to:

1. Report its Direct Emissions starting in 2025;
2. Achieve 20% reduction of its Direct Emissions by January 1, 2030; and
3. Achieve net-zero emissions by January 1, 2040.

Historic properties, schools, manufacturing buildings and agricultural buildings are excluded from the definition of covered buildings.

However, *health care facilities are not excluded from these changes.*

While the regulations are not yet implemented, they will have to account for unique needs of particular building types, including health care facilities, laboratories, assisted living and nursing facilities, critical infrastructure, and others.

Once these regulations are implemented, buildings that exceed the emission targets will pay a fee. That fee cannot be less than the “social cost of carbon”, which is established by the U.S. Environmental Protection Agency (EPA).

While we don’t yet know how health care facilities will be impacted, we can be sure that they will be required to reduce emissions significantly. Retrofitting buildings to become reliant solely on electricity will be an eventual requirement. Those who don’t comply could face large financial penalties.

Also, due to the incentives surrounding electric vehicles (EVs), existing buildings may be required to install EV charging equipment in parking lots and garages. This requirement could apply to hospitals, doctors offices, physical therapy offices, nursing facilities, etc.

B. What We Don’t Know

Until the Maryland Department of the Environment implements these regulations, health care providers, business owners, and building owners will be in the dark with respect to many questions, including the following:

What is the social cost of carbon?

The EPA sets this number, which is currently at \$51/ton. The federal government has sought to increase this number by more than double. This number will guide the penalties that health care providers, business owners, and building owners may have to pay if they do not follow the new regulations.

Many EPA observers are predicting an increase to \$151/ton coupled with subsequent future increases.

Will all buildings be treated equally?

As mentioned above, the Maryland Department of the Environment will have to specifically consider health care facilities, laboratories, assisted living and nursing facilities, critical infrastructure, and other types of buildings when implementing these regulations.

Topics is published by the Health Care Department of the law firm of **Gordon Feinblatt LLC**, a multidisciplinary team of lawyers with experience in areas of law affecting health care services.

The information contained herein is not intended to provide legal advice or opinion and should not be acted upon without consulting an attorney.

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Health care buildings could receive the benefit of reduced penalties, a longer transition period, and reduced requirements compared to other “covered buildings.”

How will buildings know the base number for 20% reduction of its Direct Emissions by January 1, 2030?

This number will be based upon an “average building of similar construction.” The issue here is that there is no clarity as to what is considered similar. For example, is a five-story office building *similar* to a five-story hospital?

Despite all of these uncertainties, it is clear that Maryland’s ambitious climate legislation will impact many businesses, including everyone who provides services in a large health care building.

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OIG Telemedicine Fraud Alert

On July 20, 2022, the Department of Health and Human Services, Office of Inspector General (OIG) released a Special Fraud Alert entitled “OIG Alerts Practitioners To Exercise Caution When Entering Into Arrangements With Purported Telemedicine Companies.”

A. Fraud Schemes Investigated

The OIG investigated companies for fraud schemes involving telehealth, telemedicine or telemarketing services (collectively, Telemedicine Companies). One common element the OIG identified in the fraud schemes was Telemedicine Companies using kickbacks to recruit and reward practitioners.

These kickbacks may violate multiple federal laws, including the federal anti-kickback statute, and individuals or entities on both sides of an impermissible kickback transaction may be liable.

The fraud schemes took several forms, including Telemedicine Companies paying physician and non-physician practitioners for ordering or prescribing items or services for patients with

whom practitioners have little to no contact or for whom the prescribed item or service is not medically necessary.

The OIG identified three potential harms these actions may have on federal health care programs or beneficiaries, including (1) increases in costs; (2) providing unnecessary care that harms a patient or delays needed care; or (3) corrupting the medical decision-making process.

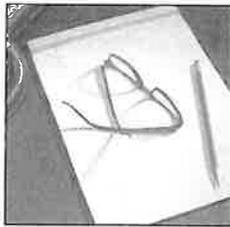
B. Suspect Characteristics

The OIG created a non-exhaustive list of characteristics that practitioners should be aware of prior to entering into any arrangements with Telemedicine Companies. These characteristics include:

1. Patients identified or recruited through a Telemedicine Company, telemarketing company, sales agent, recruiter, call center, health fair and/or through internet, television or social media advertising for free or low-cost items or services;
2. Insufficient contact between the patient and practitioner so that the practitioner cannot meaningfully assess the patient’s medical necessity for the ordered or prescribed item(s);
3. Practitioner compensation structures based on the volume of items or services prescribed;
4. Telemedicine Companies that furnish items or services solely to federal health program beneficiaries;
5. Telemedicine Companies that claim not to furnish items or services to federal health care program beneficiaries, but in fact bill federal health care programs; and
6. Telemedicine Companies that potentially restrict practitioner treatment options by only furnishing one product or single class of products.

The OIG warned that any single factor is not decisive in determining whether a practitioner’s arrangement with a Telemedicine Company runs afoul of federal laws. However, practitioners should use heightened scrutiny in consideration of the above factors when reviewing the parameters of any similar arrangement.

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Maryland Regulatory News

1. Maryland Medicaid may begin redeterminations of Medicaid recipient eligibility starting in April 2023. During the pandemic, Congress passed a law pausing Medicaid redeterminations by states that received additional reimbursement from the federal government. The intent was to ensure that individuals retained the ability to access health care for the duration of the federal public health emergency. The Consolidated Appropriations Act, 2023, ends the additional reimbursement and the pause on redeterminations as of April 2023, regardless of when the federal public health emergency ends. Redeterminations could result in individuals currently covered by Maryland Medicaid losing that coverage if they are determined to no longer be eligible for coverage.

2. Urgent Care Centers are currently required to have a physician on-site during hours of operation. Instead, the Maryland Department of Health (MDH) has proposed regulations that would allow a certified nurse practitioner or a physician's assistant to satisfy that requirement. Additionally, the proposed regulations would permit services rendered via telehealth to be reimbursed.

3. The new MDH proposed regulations would also provide guidance to physical therapists providing services via telehealth. The proposed regulations clarify that a physical therapist must be licensed in Maryland if the physical therapist is providing telehealth to a patient located in Maryland. The proposed regulations allow a physical therapist to perform a synchronous or asynchronous clinical patient evaluation before providing a patient a treatment plan through telehealth.

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HIPAA Update—Tracking Technologies

In December 2022, the Office of Civil Rights (OCR) issued a new bulletin warning Health Insurance Portability and Accountability Act (HIPAA) covered entities and business associates about the use of online tracking technologies, which are often inherent in an entity's website or mobile application.

A. PHI

HIPAA is implicated when regulated entities collect information that includes protected health information (PHI) through tracking technologies or disclose PHI to tracking technology vendors. One example provided by OCR is that disclosures of PHI to technology vendors for marketing purposes would violate HIPAA unless the covered entity obtained individuals' HIPAA-compliant authorizations.

OCR defined "tracking technology" as "a script or code on a website or mobile app used to gather information about users as they interact with the website or mobile app." The information is then analyzed to gain insights about users' online activities. The information captured may be assigned an identification enabling the owner or vendor of the website or app to create individual profiles about each user.

Information that may be disclosed includes individually identifiable health information (IIHI) such as the individual's medical record number, home or email address, dates of appointments, IP address or geographic location, or medical device identification.

In the bulletin, the OCR stated that when that information is collected through a regulated entity's website or app, that IIHI will generally be PHI, even if the individual does not have a relationship with the regulated entity and the IIHI does not include any treatment or billing information.

OCR reasons that this is because the IIHI collected connects the individual to the regulated entity indicating that the individual has or will receive health care services from the cov-

ered entity, and therefore, that the information “relates to the individual’s past, present or future health or health care or payment for care.”

B. Authenticated Webpages

The risk that PHI is disclosed to tracking technology vendors is highest when the regulated entity uses a user-authenticated webpage, where the individual logs in to a portion of the website. This is because the information stored beyond the login tends to be the type of information that may include diagnosis, prescriptions, and other treatment information.

The OCR cautions that tracking technology vendors may be business associates necessitating a business associate agreement (BAA), depending on how the vendor interacts with the PHI.

C. Unauthenticated Webpages

It is less likely that a webpage will collect PHI when it is unauthenticated, meaning that the individual doesn’t need to log into the website.

However, PHI may be collected even by an unauthenticated webpage when the webpage collects information to allow the individual to register or to search for and schedule an appointment with a provider when the website is specific to a particular type of medical condition.

D. Mobile Apps

If a regulated entity provides an app to individuals, the information collected will be considered PHI and any sharing of that information with the mobile app vendor or tracking technology vendor must comply with HIPAA.

If, however, an individual voluntarily downloads and enters information into an app that is not developed or offered by or on behalf of a covered entity, that information will not be PHI, even if the individual obtains information from their medical record created by a regulated entity.

E. Conclusion

If a regulated entity identifies that its website or app discloses PHI to a tracking technology vendor, the regulated entity must ensure that the disclosure complies with HIPAA, including ensuring that HIPAA permits the disclosure, and, if permitted, entering into a BAA with the vendor and restricting the disclosure to just that which is necessary to provide the service.

If HIPAA does not provide permission for the disclosure or the vendor is not a business associate, then the regulated entity must obtain the individuals’ HIPAA-compliant authorizations before the PHI is disclosed. OCR cautions that “Website banners that ask users to accept or reject a website’s use of tracking technologies, such as cookies, do not constitute a valid HIPAA authorization.”

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HIPAA Update— Electronic Transmissions

On December 21, 2022, the Department of Health and Human Services (HHS) proposed a rule (Proposed Rule) that: would adopt new Health Insurance Portability and Accountability Act (HIPAA) standards for health care attachment transactions and electronic signatures; and would modify referral certification and authorization transaction standards.

Under HIPAA and the Affordable Care Act, the Secretary of HHS is required to adopt standards for certain transactions to enable health information to be exchanged more efficiently and to achieve greater uniformity in the transmission of health information.

The Secretary found that transmitting health care attachments is still primarily a manual process, which costs the health care industry millions of dollars each year. Accordingly, the Proposed Rule intends to create a fully electronic system for attachments required for prior authorizations and claims.

A. New Definitions

The Proposed Rule includes definitions of two new terms, “attachment information” and “electronic signature.”

The proposed definition of “attachment information” is documentation that enables the health plan to make a decision about health care that is not a health care claim, equivalent

encounter information, or a referral certification or authorization transaction.

The proposed definition of “electronic signature” is “an electronic sound, symbol, or process, attached to or logically associated with attachment information and executed by a person with the intent to sign the attachment information.”

HHS is accepting comments on these proposed definitions, and the intent was to define these terms broadly enough that they encompass future technological changes.

B. Effective Date

All HIPAA covered entities would be impacted by this Proposed Rule. Covered entities include all health plans, health care clearinghouses, and health care providers that transmit health information in an electronic form in connection with a transaction for which the Secretary has adopted a standard.

Likely, covered entities will incur several one-time costs to implement the new rules. The Secretary identified those costs as coming from, among other things, “analysis of business flow changes, software procurement or customized software development, integration of new software into existing provider/vendor systems, staff training, and collection of new data, testing, and transition processes.”

If adopted, all covered entities would need to comply with the new rule 24 months after the effective date of the final rule.

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MOBILE Health Care Act

With strong bipartisan support, Congress passed the Maximizing Outcomes through Better Investments in Lifesaving Equipment (MOBILE) Health Care Act at the end of 2022, which greatly expands the ability of a Federally Qualified Health Center (FQHC) and a Health Resource and Services Administration (HRSA) designated Health Center look-alike to use

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mobile health clinics to deliver care to underserved communities. (FQHCs and look-alikes are referred to collectively as Health Centers in the MOBILE Act.)

The MOBILE Act, sponsored by politicians from both sides of the aisle, allows Health Centers to use funds awarded through HRSA's New Access Points (NAP) grant program to establish new “access points”, in this case new mobile units. NAP funding can provide up to \$650,000 per applicant to establish new sites.

Prior to the passage of the MOBILE Act, a Health Center had to open a new permanent brick and mortar location in conjunction with each new mobile center, which was cost prohibitive for many organizations. The MOBILE Act eliminated this requirement.

Though many Health Centers are already located in underserved areas, mobile health care supports patients who may not have access to reliable care due to geography, transportation constraints, socioeconomic status, disability status, or other barriers. Mobile facilities have been equipped to deliver a wide range of services including vaccinations and screenings, mental health care, dental care, mammograms, telehealth access points, and more.

There has been a dramatic increase in demand for health care outside of traditional practice space, as the COVID-19 pandemic created a variety of temporary flexibilities. The National Association of Community Health Centers reports that there has been a 40% increase in mobile units since 2019. The continued growth of mobile units promises to have a significant impact on health care delivery, as one in 11 Americans rely on a Health Center for care.

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If You Play the Business Judgment Card, I'll Play the Interested Director Card

The decisions of boards of directors in Maryland, including boards of directors of health care corporations, are generally entitled to the benefit of something called “the business judgment rule.” That means, generally, actions of a board of directors will be upheld upon challenge if they are made in good faith, with the care that a prudent person would use, and under the reasonable belief that the directors were acting for the benefit of the corporation.

In *Cherington Condo. v. Kenney*, Maryland’s intermediate appellate court was recently faced with a challenge to a decision by a condominium board to increase garden unit residents’ monthly assessments disproportionately for the maintenance of outdoor spaces around townhouse units. Even though all board members lived in townhouse units, the condominium board still argued that its decision was protected by the business judgment rule.

However, the appellate court reminded the directors that the business judgment rule does not apply: (A) if there is fraud or bad faith; or (B) if under the interested director rule, there is a showing of a director’s conflict of interest.

In the case of an “interested director,” the applicable Maryland statute provides that the taint of conflict may be removed by (1) approval or ratification, following full disclosure, by (a) a majority of disinterested directors, or (b) a majority of disinterested stockholders; or (2) proof by the interested director that the transaction was fair and reasonable to the corporation.

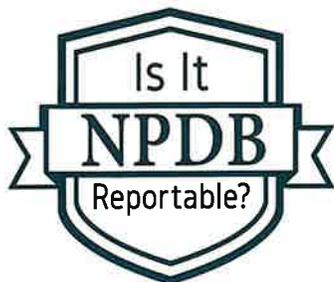
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Did You Know?

Buprenorphine: Did you know that the Consolidated Appropriations Act, 2023 (CAA 2023) revoked the federal requirement that individual health care practitioners need to obtain an additional waiver (DATA waiver or X-waiver) to treat patients with buprenorphine outside of an Outpatient Treatment Program? According to federal law, health care practitioners may now treat patients with buprenorphine if the practitioner is registered with the Drug Enforcement Administration to dispense opioids. Furthermore, the CAA 2023 removed the federal limitation on the number of patients that a health care provider can be treating with buprenorphine at one time. The intent is to remove barriers to treatment for those with substance use disorders by increasing the number of providers able to prescribe buprenorphine for substance use treatment. Importantly, the revocation of the federal law does not impact any state laws that may exist that include additional requirements for a health care provider to treat a patient with buprenorphine.

Non-Traditional Medicaid Benefits: Did you know that on January 4, 2023, the Center for Medicare and Medicaid Services (CMS) issued a letter to state Medicaid directors providing additional guidance on how states may use existing flexibility in the law to provide Medicaid enrollees with benefits that will help improve population health, reduce health inequities and lower overall health care costs to Medicaid? States may obtain approval from CMS to offer non-traditional services in lieu of service or setting (ILOS) to Medicaid enrollees. In the letter, CMS establishes six principles to guide states when implementing ILOS. Those six principles are that the ILOS must (1) advance the objectives of the Medicaid program, (2) be cost effective, (3) be medically appropriate, (4) be provided in a manner that preserves enrollee rights and protections, (5) be subject to appropriate monitoring and oversight, and (6) be subject to retrospective evaluation, when applicable.

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Is It Reportable?

Is a leave of absence while under investigation considered to be a resignation of privileges that is reportable?

If a leave of absence while under investigation restricts privileges, it is reportable. NPDB's regulation states that "[a]cceptance of the surrender of clinical privileges or any restriction of such privileges" is reportable. To the extent a leave of absence restricts a practitioner's ability to exercise privileges, it is considered a surrender that is reportable. If a practitioner can take a leave of absence without

affecting his or her privileges, and his or her privileges stay intact during the leave of absence, the leave of absence is not reportable to the NPDB.

Hospital Querying Requirement Remains at Two Years

The Health Care Quality Improvement Act still mandates that all hospitals query the NPDB every 2 years, despite the fact that some hospital accreditation organizations permit practitioner evaluation to be done every 3 years.

As a reminder, hospitals must query:

- When a practitioner applies for medical staff appointment (courtesy or otherwise) or for clinical privileges at the hospital, including temporary privileges; and
- Every 2 years on all practitioners who are on its medical staff or who hold clinical privileges at the hospital.

You should use Continuous Query to best meet this requirement, regardless of your credentialing cycle. Continuous Query sends renewal reminders and allows you to set up autorenewals for all of your enrolled practitioners.

Continuous Query keeps you informed about your enrolled practitioners 24 hours a day, 365 days a year. You will receive an email within 24 hours of a report being received by the NPDB.

Visit our [How to Activate Continuous Query](#) page to get started today.



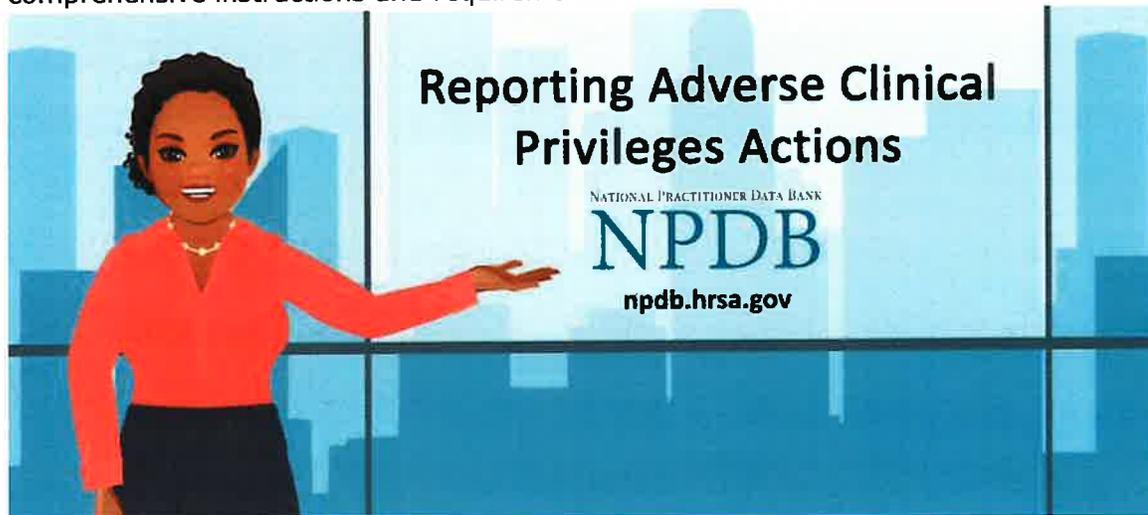
Reporting Clinical Privileges Actions

If your hospital or entity has taken a professional review action against a physician or dentist, you may need to report a clinical privileges action to the NPDB. Hospitals and other health care entities may also report other

health care practitioners. These include physician assistants, nurse practitioners, social workers, and podiatrists among many others.

We've created a short video to help explain reporting of clinical privileges actions. The video takes you through the main reporting requirements.

This video provides basic guidance only. Please review the [federal regulations](#) and the [NPDB Guidebook](#) for comprehensive instructions and requirements.



Reporting Adverse Clinical Privileges Actions

 [Watch the Video \(4:34\)](#)

Dear NPDB

How do I enroll subjects in Continuous Query from Stored Subjects?

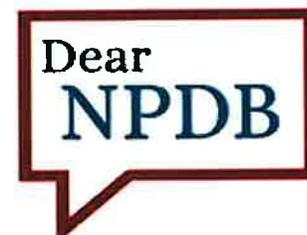
Stored Subjects are temporary records designed to hold practitioner information as you prepare to enroll them in [Continuous Query](#), as opposed to the [Subject Database](#), which permanently stores practitioner information for querying and reporting. Instead of submitting a large list of practitioners individually, you can submit batch enrollments in Continuous Query using Stored Subjects.

The Stored Subjects feature is used only for enrolling practitioners in Continuous Query and should not be used for permanent storage of practitioner data.

To store subjects in Continuous Query:

1. Sign into your NPDB user account.
2. On the Select an Option page, select **Query**.
3. On the Query Options page, select **Start a Query or Enrollment**.
4. Select **Continuous Query**.
5. Select Enroll a Single Subject.
6. Enter the subject's information and select Store – Do Not Enroll at the bottom of the page.

To submit batch enrollments using Stored Subjects:



1. Once you have successfully stored your subjects, select **Start a Query or Enrollment** on the Query Options page.
2. Select **Continuous Query**.
3. Select **Enroll Stored Subjects**.
4. From Step 1, the Subjects Available for Enrollment list, select the stored subject(s) you wish to enroll in Continuous Query.
5. In Step 2, press the **Select Subjects**.
6. Select the "**All**" radio button in the top left corner of the Subject Selected for Enrollment list.
7. In Step 3, check whether the enrolled subjects will be privileged staff or employees, temporary or locum tenens, or applicants.
8. In Step 4, select **Enroll**.
9. On the Select a Payment Method page, choose from one of your available payment methods and click **Continue**.

After successfully enrolling a practitioner, the stored record is removed from your Stored Subjects list and becomes an active enrollment that you can update at any time.

To upload batch enrollments from a separate system, first import your subjects into the NPDB Subject Database. For assistance with importing your subjects into the Subject Database, access the Subject Database Import Specifications:

1. Go to the [Software Sign In](#) page and enter your vendor ID.
Note: *If you do not have a vendor ID, select Create Account, check the box for IQRS Subject Database XML Import, and complete the rest of the form to receive a vendor ID.*
2. Once you sign in with your vendor ID, select **Access the IQRS Subject Database Import Specifications** for assistance with importing your subject database to the NPDB system.
Note: *Your import file must be formatted as a fixed width or XML file.*

The latest updates and resources are available at <https://www.npdb.hrsa.gov>.

Previous editions of NPDB Insights are available in our [archive](#).