

HOUSE BILL 1009

J3

3lr2303
CF 3lr2673

By: **Delegate Reznik**

Introduced and read first time: February 8, 2013

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Spa Facilities – Licensing Requirements**

3 FOR the purpose of prohibiting a medical spa facility from operating in the State
4 unless the medical spa facility holds a license issued by the Secretary of Health
5 and Mental Hygiene; requiring the Secretary to set certain application and
6 renewal fees; requiring the Secretary to issue a license to an applicant that
7 meets certain requirements; prohibiting the transfer of a license; requiring a
8 license to be displayed in a certain manner; requiring an applicant for a license
9 to pay a certain application fee and submit an application to the Secretary on a
10 certain form; requiring the application to include certain items; requiring the
11 owner of a medical spa facility to submit an application and obtain a separate
12 license for each medical spa facility to be operated; providing for the expiration
13 and renewal of a license; requiring the Secretary to conduct a random inspection
14 of each licensed medical spa facility with a certain frequency and for certain
15 purposes; authorizing the Secretary to conduct certain inspections of a licensed
16 medical spa facility for certain purposes; requiring a licensed medical spa
17 facility to allow certain access; requiring the Secretary and a licensed medical
18 spa facility to make the results of a certain inspection available to the public on
19 request; requiring the Secretary to adopt regulations for certain purposes;
20 authorizing the Secretary to deny a license and take certain actions relating to a
21 license of a licensee under certain circumstances; requiring the Secretary to
22 provide the opportunity for a hearing in accordance with the Administrative
23 Procedure Act under certain circumstances; establishing certain penalties for
24 violations of certain provisions of this Act or certain regulations; requiring the
25 Secretary to adopt regulations that establish standards for the imposition of a
26 certain penalty; defining certain terms; and generally relating to licensing
27 medical spa facilities and the Secretary of Health and Mental Hygiene.

28 BY adding to
29 Article – Health – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 19–3C–01 through 19–3C–09 to be under the new subtitle “Subtitle 3C.
2 Medical Spa Facilities”
3 Annotated Code of Maryland
4 (2009 Replacement Volume and 2012 Supplement)

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

7 **Article – Health – General**

8 **SUBTITLE 3C. MEDICAL SPA FACILITIES.**

9 **19–3C–01.**

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) (1) “COSMETIC MEDICAL PROCEDURE” MEANS A PROCEDURE
13 USING A COSMETIC MEDICAL DEVICE OR MEDICAL PRODUCT TO IMPROVE AN
14 INDIVIDUAL’S APPEARANCE.

15 (2) “COSMETIC MEDICAL PROCEDURE” INCLUDES:

16 (I) SKIN TREATMENTS USING LASERS;

17 (II) SKIN TREATMENTS USING INTENSE PULSED LIGHT;

18 (III) SKIN TREATMENTS USING RADIO FREQUENCIES,
19 MICROWAVES, OR ELECTRIC PULSES;

20 (IV) DEEP SKIN PEELS;

21 (V) SKIN TREATMENTS WITH PHOTOTHERAPY;

22 (VI) MICRODERMABRASION;

23 (VII) SUBCUTANEOUS, INTRADERMAL, OR INTRAMUSCULAR
24 INJECTIONS OF MEDICAL PRODUCTS;

25 (VIII) TREATMENTS INTENDED TO REMOVE OR CAUSE
26 DESTRUCTION OF FAT; AND

27 (IX) ANY TREATMENT USING A COSMETIC MEDICAL DEVICE
28 FOR THE PURPOSE OF IMPROVING AN INDIVIDUAL’S APPEARANCE.

1 (C) (1) “COSMETIC SURGICAL PROCEDURE” MEANS THE USE OF
2 SURGICAL SERVICES TO RESHAPE THE STRUCTURE OF A HUMAN BODY TO
3 CHANGE THE APPEARANCE OF AN INDIVIDUAL.

4 (2) “COSMETIC SURGICAL PROCEDURE” DOES NOT INCLUDE:

5 (I) A PROCEDURE DONE UNDER LOCAL ANESTHESIA OR
6 MILD SEDATION; OR

7 (II) LIPOSUCTION THAT REMOVES LESS THAN 1,000 CUBIC
8 CENTIMETERS OF ASPIRATE.

9 (D) “MEDICAL SPA DIRECTOR” MEANS A LICENSED PHYSICIAN WHO
10 DIRECTS OR SERVES AS THE MEDICAL ADVISOR FOR A MEDICAL SPA FACILITY.

11 (E) “MEDICAL SPA FACILITY” MEANS ANY ENTITY, HOWEVER
12 ORGANIZED, IN WHICH A COSMETIC MEDICAL PROCEDURE OR A COSMETIC
13 SURGICAL PROCEDURE IS PERFORMED.

14 **19-3C-02.**

15 THIS SUBTITLE DOES NOT APPLY TO:

16 (1) A HEALTH CARE FACILITY THAT HOLDS A LICENSE UNDER
17 THIS TITLE;

18 (2) THE PRACTICE OF COSMETOLOGY OR ELECTROLOGY,
19 WHETHER IN A SEPARATE FACILITY OR IN A MEDICAL SPA FACILITY; OR

20 (3) A CLINIC OR MEDICAL PRACTICE THAT PROVIDES COSMETIC
21 MEDICAL PROCEDURES OR COSMETIC SURGICAL PROCEDURES AS PART OF OR
22 INCIDENT TO ITS OTHER MEDICAL SERVICES, AS DETERMINED BY THE
23 DEPARTMENT.

24 **19-3C-03.**

25 (A) A MEDICAL SPA FACILITY MAY NOT OPERATE IN THE STATE UNLESS
26 THE MEDICAL SPA FACILITY HOLDS A LICENSE ISSUED BY THE SECRETARY.

27 (B) THE SECRETARY SHALL SET REASONABLE APPLICATION AND
28 RENEWAL FEES NOT TO EXCEED THE ADMINISTRATIVE COSTS OF LICENSING
29 AND INSPECTION.

1 **(C) THE SECRETARY SHALL ISSUE A LICENSE TO AN APPLICANT THAT**
2 **MEETS THE REQUIREMENTS OF THIS SUBTITLE AND ALL APPLICABLE**
3 **REGULATIONS ADOPTED BY THE SECRETARY.**

4 **(D) A LICENSE ISSUED UNDER THIS SUBTITLE IS NOT TRANSFERABLE.**

5 **(E) A MEDICAL SPA FACILITY LICENSE SHALL BE DISPLAYED**
6 **CONSPICUOUSLY IN THE PLACE OF BUSINESS FOR WHICH THE LICENSE IS**
7 **ISSUED.**

8 **19-3C-04.**

9 **(A) AN APPLICANT FOR A MEDICAL SPA FACILITY LICENSE SHALL:**

10 **(1) PAY TO THE SECRETARY AN APPLICATION FEE SET BY THE**
11 **SECRETARY; AND**

12 **(2) SUBMIT AN APPLICATION TO THE SECRETARY ON THE FORM**
13 **THAT THE SECRETARY REQUIRES.**

14 **(B) THE APPLICATION SHALL INCLUDE:**

15 **(1) THE NAME, FULL BUSINESS ADDRESS, AND TELEPHONE**
16 **NUMBER OF THE APPLICANT;**

17 **(2) ALL TRADE OR BUSINESS NAMES USED BY THE APPLICANT;**

18 **(3) THE TYPE OF BUSINESS FORM UNDER WHICH THE APPLICANT**
19 **OPERATES, SUCH AS PARTNERSHIP, CORPORATION, OR SOLE PROPRIETORSHIP;**

20 **(4) THE NAME OF EACH OWNER OF THE APPLICANT;**

21 **(5) THE NAME AND PHYSICIAN LICENSE NUMBER OF THE**
22 **MEDICAL SPA DIRECTOR;**

23 **(6) THE NAMES AND PHYSICIAN LICENSE NUMBERS OF ALL**
24 **SUPERVISING PHYSICIANS;**

25 **(7) A LIST OF ALL MEDICAL DEVICES TO BE USED AT THE**
26 **MEDICAL SPA FACILITY; AND**

1 **(8) A LIST OF ALL COSMETIC MEDICAL PROCEDURES AND ALL**
2 **COSMETIC SURGICAL PROCEDURES TO BE PERFORMED AT THE MEDICAL SPA**
3 **FACILITY.**

4 **(C) AN OWNER OF A MEDICAL SPA FACILITY SHALL SUBMIT AN**
5 **APPLICATION AND OBTAIN A SEPARATE LICENSE FOR EACH MEDICAL SPA**
6 **FACILITY TO BE OPERATED.**

7 **19-3C-05.**

8 **(A) A LICENSE EXPIRES ON THE THIRD ANNIVERSARY OF ITS**
9 **EFFECTIVE DATE, UNLESS THE LICENSE IS RENEWED FOR A 3-YEAR TERM AS**
10 **PROVIDED IN THIS SECTION.**

11 **(B) BEFORE THE LICENSE EXPIRES, A LICENSE MAY BE RENEWED FOR**
12 **AN ADDITIONAL 3-YEAR TERM IF THE APPLICANT:**

13 **(1) OTHERWISE IS ENTITLED TO THE LICENSE;**

14 **(2) PAYS TO THE SECRETARY THE RENEWAL FEE SET BY THE**
15 **SECRETARY; AND**

16 **(3) SUBMITS TO THE SECRETARY:**

17 **(I) A RENEWAL APPLICATION ON THE FORM THAT THE**
18 **SECRETARY REQUIRES; AND**

19 **(II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY**
20 **REQUIREMENT UNDER THIS SUBTITLE FOR LICENSE RENEWAL.**

21 **(C) THE SECRETARY SHALL RENEW A LICENSE IF THE APPLICANT**
22 **MEETS THE REQUIREMENTS OF THIS SECTION.**

23 **19-3C-06.**

24 **(A) THE SECRETARY:**

25 **(1) SHALL CONDUCT A RANDOM INSPECTION OF EACH LICENSED**
26 **MEDICAL SPA FACILITY:**

27 **(I) WITHIN THE FIRST 6 MONTHS AFTER THE MEDICAL SPA**
28 **FACILITY BEGINS OPERATIONS; AND**

- 1 **(II) AT LEAST EVERY 3 YEARS THEREAFTER; AND**
- 2 **(2) MAY CONDUCT AN INSPECTION OF A LICENSED MEDICAL SPA**
3 **FACILITY:**
- 4 **(I) TO VERIFY COMPLIANCE WITH LICENSING**
5 **REQUIREMENTS; AND**
- 6 **(II) TO INVESTIGATE COMPLAINTS.**
- 7 **(B) A LICENSED MEDICAL SPA FACILITY SHALL ALLOW ACCESS TO ALL**
8 **PARTS OF THE MEDICAL SPA FACILITY AND ALL PERTINENT RECORDS**
9 **REQUIRED FOR INSPECTION.**
- 10 **(C) THE SECRETARY AND A LICENSED MEDICAL SPA FACILITY SHALL**
11 **MAKE THE RESULTS OF AN INSPECTION CONDUCTED UNDER SUBSECTION (A)**
12 **AVAILABLE TO THE PUBLIC ON REQUEST.**

13 **19-3C-07.**

14 **THE SECRETARY SHALL ADOPT REGULATIONS TO:**

- 15 **(1) ESTABLISH STANDARDS AND PROCEDURES TO ENSURE**
16 **QUALITY OF CARE AND PATIENT SAFETY, INCLUDING:**
- 17 **(I) QUALIFICATIONS, TRAINING, AND RESPONSIBILITIES**
18 **OF MEDICAL SPA DIRECTORS, SUPERVISING PHYSICIANS, AND OTHER**
19 **PERSONNEL;**
- 20 **(II) STANDARDS FOR DELEGATION OF COSMETIC MEDICAL**
21 **PROCEDURES AND COSMETIC SURGICAL PROCEDURES TO NONPHYSICIAN**
22 **PERSONNEL;**
- 23 **(III) PROCEDURES FOR CREDENTIALING AND PEER REVIEW;**
- 24 **(IV) EMERGENCY PLANS AND PROCEDURES;**
- 25 **(V) STANDARDS AND PROCEDURES FOR SANITATION AND**
26 **HAZARDOUS WASTE DISPOSAL;**
- 27 **(VI) FACILITY AND BUILDING STANDARDS;**

1 (VII) QUALITY CONTROLS FOR ANY MEDICAL DEVICES OR
2 EQUIPMENT;

3 (VIII) PROCEDURES FOR PATIENT RECOVERY, DISCHARGE,
4 AND FOLLOW-UP;

5 (IX) REPORTING OF ADVERSE EVENTS; AND

6 (X) ANY OTHER STANDARDS OR PROCEDURES THE
7 SECRETARY CONSIDERS NECESSARY FOR QUALITY OF CARE AND PATIENT
8 SAFETY; AND

9 (2) CARRY OUT THIS SUBTITLE.

10 19-3C-08.

11 (A) THE SECRETARY MAY DENY A LICENSE TO ANY APPLICANT, OR
12 SUSPEND, RESTRICT, OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE
13 FAILS TO MEET THE REQUIREMENTS OF THIS SUBTITLE OR ANY REGULATION
14 ADOPTED UNDER THIS SUBTITLE.

15 (B) (1) BEFORE DENYING, SUSPENDING, RESTRICTING, OR REVOKING
16 A LICENSE UNDER THIS SECTION, THE SECRETARY SHALL PROVIDE THE
17 APPLICANT OR LICENSEE AN OPPORTUNITY FOR A HEARING.

18 (2) THE SECRETARY SHALL GIVE NOTICE AND HOLD THE
19 HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

20 19-3C-09.

21 (A) (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE
22 OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A
23 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A PENALTY NOT EXCEEDING
24 \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

25 (2) EACH DAY A VIOLATION CONTINUES AFTER THE FIRST
26 CONVICTION IS A SEPARATE OFFENSE.

27 (B) (1) IN ADDITION TO THE PROVISIONS OF SUBSECTION (A) OF THIS
28 SECTION, THE SECRETARY MAY IMPOSE AN ADMINISTRATIVE PENALTY OF UP
29 TO \$1,000 FOR A VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY
30 REGULATION ADOPTED UNDER THIS SUBTITLE.

1 **(2) THE SECRETARY SHALL ADOPT REGULATIONS THAT**
2 **ESTABLISH STANDARDS FOR THE IMPOSITION OF AN ADMINISTRATIVE PENALTY**
3 **UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2013.