

SENATE BILL 500

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2003 Regular Session  
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By: **Senator Hollinger**

Introduced and read first time: January 31, 2003

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 31, 2003

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CHAPTER 252

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - State Board of Physicians**

3 FOR the purpose of renaming the State Board of Physician Quality Assurance to be  
4 the State Board of Physicians (Board); continuing the Board in accordance with  
5 the provisions of the Maryland Program Evaluation Act by extending to a  
6 certain date the termination provisions relating to the statutory and regulatory  
7 authority of the Board; requiring that an evaluation of the Board and the  
8 statutes and regulations that relate to the Board be performed on or before a  
9 certain date; repealing a provision requiring the Health Claims Arbitration  
10 Office (HCAO) to forward certain information to the Medical and Chirurgical  
11 Faculty of Maryland (Faculty); adding certain members to the membership of  
12 the Board; altering the requirements for certain practicing licensed physician  
13 members of the Board; altering the appointment process for certain physician  
14 members of the Board; changing one of the consumer members of the Board to  
15 be a certain public member of the Board; altering the requirements for both the  
16 consumer members and the public member of the Board; requiring the Board to  
17 provide a certain notice of a vacancy of certain members of the Board, to provide  
18 information regarding a certain selection process, to solicit professional  
19 organizations and licensed physicians in the State to submit a certain  
20 nomination or petition, and to forward to the Governor a list of all valid  
21 nominations and petitions; requiring the Board to provide a certain notice of a  
22 vacancy of a certain physician assistant member of the Board; authorizing the  
23 Governor to make certain reappointments and appointments to the Board in a  
24 certain manner; repealing a provision of law requiring the chairman of the  
25 Board to be appointed by the Governor; providing for the chairman of the Board  
26 to be elected by the members of the Board; requiring fees charged by the Board  
27 to approximate the costs of maintaining the Board; requiring the Comptroller to  
28 distribute certain fees to the Board of Physicians Fund (Fund) under certain

1 circumstances; requiring certain interest and other investment income to be  
2 paid into the ~~Board of Physicians Fund (Fund)~~; requiring the Board to fund the  
3 budget of the Physician Rehabilitation Committee with fees collected and  
4 distributed to the Fund; authorizing the Board to allocate moneys from the  
5 Fund after review and approval of a certain budget; requiring a certain vote of  
6 the Board in order to dismiss certain actions against a restricted license holder;  
7 repealing provisions of law requiring the Faculty to conduct certain  
8 investigations and peer review and to provide certain malpractice information to  
9 the Board; requiring the Board to enter into a written contract with ~~an~~ a  
10 nonprofit entity or entities to provide certain investigation, physician  
11 rehabilitation, and peer review services; providing for certain time limits  
12 relating to peer review; requiring the physician rehabilitation committee to  
13 report certain noncompliance to the Board; prohibiting a certain agreement for  
14 corrective action from being used except under certain circumstances; specifying  
15 that the members of the Physician Rehabilitation Committee are appointed by  
16 the ~~Faculty~~ entity or entities with whom the Board contracts; requiring the  
17 chairman of the Board to appoint a member to serve as a liaison to the Physician  
18 Rehabilitation Committee; ~~authorizing the chairman of the Board to appoint a~~  
19 ~~certain subcommittee of the Board to conduct certain hearings in a certain~~  
20 ~~manner~~; requiring that factual findings be supported by a preponderance of the  
21 evidence under certain circumstances; requiring that factual findings be  
22 supported by clear and convincing evidence under certain circumstances;  
23 requiring a certain vote of the Board in order to dismiss certain charges against  
24 a licensee; altering certain requirements for licensee profiles created by the  
25 Board; requiring the Board to maintain a single website containing certain  
26 information; modifying the termination provision for the Maryland Respiratory  
27 Care Practitioners Act; defining a certain term; specifying the terms of certain  
28 members of the Board; ~~requiring the Board to submit a certain report on the~~  
29 ~~financial condition of the Board by a certain date~~; requiring the Governor to  
30 appoint a new State Board of Physicians with the advice of the Secretary of  
31 Health and Mental Hygiene and the advice and consent of the Senate; requiring  
32 the Board to submit a certain report on investigative caseloads by a certain date;  
33 requiring the Board and the Office of the Attorney General to review a certain  
34 process, make certain recommendations, and submit a certain report by a  
35 certain date; requiring the Board to implement certain changes to the ~~exceptions~~  
36 ~~hearing case resolution conference~~ process; requiring the Board to utilize an  
37 additional reviewer if certain peer reviewers do not reach an agreement;  
38 exempting the Board from certain provisions of law requiring a certain  
39 preliminary evaluation; ~~requiring the Governor to include certain funds for~~  
40 ~~certain programs administered by the Maryland Higher Education Commission~~  
41 ~~in a certain fiscal year~~; ~~delaying the effective date of certain provisions of this~~  
42 ~~Act and providing that certain provisions of this Act are contingent on the~~  
43 ~~Governor's including certain funds in the budget in a certain fiscal year~~; making  
44 a technical change; requiring the publisher of the Annotated Code, in  
45 consultation with, and subject to the approval of the Department of Legislative  
46 Services, to correct certain references rendered incorrect by this Act; requiring  
47 the Board and the Department of Health and Mental Hygiene to report to  
48 certain committees through both a written report and an oral presentation on or

1 before a certain date; and generally relating to the State Board of Physicians.

2 BY repealing and reenacting, with amendments,

3 Article - Courts and Judicial Proceedings

4 Section 3-2A-04(a)

5 Annotated Code of Maryland

6 (2002 Replacement Volume)

7 BY repealing and reenacting, with amendments,

8 Article - Health Occupations

9 Section 14-101, 14-202, 14-203, 14-207, 14-321(e), 14-401, 14-402, 14-405,  
10 14-406, 14-411.1, 14-504(g), 14-5A-25, ~~and 14-702,~~ and 15-310(e)

11 Annotated Code of Maryland

12 (2000 Replacement Volume and 2002 Supplement)

13 BY repealing and reenacting, without amendments,

14 Article - Health Occupations

15 Section 14-404 and 14-413

16 Annotated Code of Maryland

17 (2000 Replacement Volume and 2002 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article - State Government

20 Section 8-403(b)(51)

21 Annotated Code of Maryland

22 (1999 Replacement Volume and 2002 Supplement)

23 ~~BY repealing and reenacting, with amendments,~~

24 ~~Article - Health Occupations~~

25 ~~Section 14-207(e)~~

26 ~~Annotated Code of Maryland~~

27 ~~(2000 Replacement Volume and 2002 Supplement)~~

28 ~~(As enacted by Section 1 of this Act)~~

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

30 MARYLAND, That the Laws of Maryland read as follows:

31 **Article - Courts and Judicial Proceedings**

32 3-2A-04.

33 (a) (1) A person having a claim against a health care provider for damage

34 due to a medical injury shall file his claim with the Director, and, if the claim is

35 against a physician, the Director shall forward copies of the claim to the State Board

36 of [Physician Quality Assurance and the Medical and Chirurgical Faculty of the State

1 of Maryland] PHYSICIANS. The Director shall cause a copy of the claim to be served  
2 upon the health care provider by the appropriate sheriff in accordance with the  
3 Maryland Rules. The health care provider shall file a response with the Director and  
4 serve a copy on the claimant and all other health care providers named therein within  
5 the time provided in the Maryland Rules for filing a responsive pleading to a  
6 complaint. The claim and the response may include a statement that the matter in  
7 controversy falls within one or more particular recognized specialties.

8 (2) A third-party claim shall be filed within 30 days of the response of  
9 the third-party claimant to the original claim unless the parties consent to a later  
10 filing or a later filing is allowed by the panel chairman for good cause shown.

11 (3) A claimant may not add a new defendant after the arbitration panel  
12 has been selected, or 10 days after the prehearing conference has been held,  
13 whichever is later.

14 (4) Until all costs attributable to the first filing have been satisfied, a  
15 claimant may not file a second claim on the same or substantially the same grounds  
16 against any of the same parties.

17 **Article - Health Occupations**

18 14-101.

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

20 (b) "Board" means the State Board of [Physician Quality Assurance]  
21 PHYSICIANS.

22 (c) "Civil action" includes a health care malpractice claim under Title 3,  
23 Subtitle 2A of the Courts Article.

24 (d) "Faculty" means the Medical and Chirurgical Faculty of the State of  
25 Maryland.

26 (e) "Hospital" has the meaning stated in § 19-301 of the Health - General  
27 Article.

28 (f) "License" means, unless the context requires otherwise, a license issued by  
29 the Board to practice medicine.

30 (g) "Licensed physician" means, unless the context requires otherwise, a  
31 physician, including a doctor of osteopathy, who is licensed by the Board to practice  
32 medicine.

33 (h) "Licensee" means an individual to whom a license is issued, including an  
34 individual practicing medicine within or as a professional corporation or professional  
35 association.

1 (i) "Perform acupuncture" means to stimulate a certain point or points on or  
 2 near the surface of the human body by the insertion of needles to prevent or modify  
 3 the perception of pain or to normalize physiological functions, including pain control,  
 4 for the treatment of ailments or conditions of the body.

5 (j) "Physician" means an individual who practices medicine.

6 (k) "PHYSICIAN REHABILITATION COMMITTEE" MEANS THE COMMITTEE OF  
 7 THE FACULTY ENTITY OR ENTITIES WITH WHOM THE BOARD CONTRACTS UNDER  
 8 §14-401(E) OF THIS TITLE THAT EVALUATES AND PROVIDES ASSISTANCE TO  
 9 IMPAIRED PHYSICIANS IN NEED OF TREATMENT AND REHABILITATION FOR  
 10 ALCOHOLISM, CHEMICAL DEPENDENCY, OR OTHER PHYSICAL, EMOTIONAL, OR  
 11 MENTAL CONDITIONS.

12 (L) (1) "Practice medicine" means to engage, with or without compensation,  
 13 in medical:

14 (i) Diagnosis;

15 (ii) Healing;

16 (iii) Treatment; or

17 (iv) Surgery.

18 (2) "Practice medicine" includes doing, undertaking, professing to do,  
 19 and attempting any of the following:

20 (i) Diagnosing, healing, treating, preventing, prescribing for, or  
 21 removing any physical, mental, or emotional ailment or supposed ailment of an  
 22 individual:

23 1. By physical, mental, emotional, or other process that is  
 24 exercised or invoked by the practitioner, the patient, or both; or

25 2. By appliance, test, drug, operation, or treatment;

26 (ii) Ending of a human pregnancy; and

27 (iii) Performing acupuncture.

28 (3) "Practice medicine" does not include:

29 (i) Selling any nonprescription drug or medicine;

30 (ii) Practicing as an optician; or

31 (iii) Performing a massage or other manipulation by hand, but by no  
 32 other means.

1 [(l)] (M) "Related institution" has the meaning stated in § 19-301 of the  
2 Health - General Article.

3 14-202.

4 (a) (1) The Board shall consist of [15] 21 members appointed by the  
5 Governor WITH THE ADVICE OF THE SECRETARY AND THE ADVICE AND CONSENT OF  
6 THE SENATE.

7 (2) Of the [15] 21 members:

8 (i) [10] 11 shall be practicing licensed physicians, AT LEAST ONE  
9 OF WHOM SHALL BE A DOCTOR OF OSTEOPATHY, appointed [from a list submitted by  
10 the Faculty] ~~BY THE GOVERNOR AS PROVIDED IN SUBSECTION (D)~~ SUBSECTIONS (D)  
11 AND (E) OF THIS SECTION;

12 (ii) 1 shall be a practicing licensed physician appointed at the  
13 Governor's discretion;

14 (iii) 1 shall be a representative of the Department nominated by the  
15 Secretary;

16 (IV) ~~1 SHALL BE A PRACTICING LICENSED PHYSICIAN WHO~~  
17 ~~PRACTICES COMPLEMENTARY AND ALTERNATIVE METHODS OF CARE APPOINTED AT~~  
18 ~~THE GOVERNOR'S DISCRETION WITH THE ADVICE OF THE SECRETARY~~ CERTIFIED  
19 PHYSICIAN ASSISTANT APPOINTED AT THE GOVERNOR'S DISCRETION AS PROVIDED  
20 IN SUBSECTIONS (F) AND (G) OF THIS SECTION;

21 (V) 1 SHALL BE A PRACTICING LICENSED PHYSICIAN WITH A  
22 FULL-TIME FACULTY APPOINTMENT APPOINTED TO SERVE AS A REPRESENTATIVE  
23 OF AN ACADEMIC MEDICAL INSTITUTION IN THIS STATE APPOINTED FROM A LIST  
24 CONTAINING:

25 1. 3 NAMES SUBMITTED BY THE JOHNS HOPKINS  
26 UNIVERSITY SCHOOL OF MEDICINE; AND

27 2. 3 NAMES SUBMITTED BY THE UNIVERSITY OF MARYLAND  
28 SCHOOL OF MEDICINE;

29 [(iv)] (VI) [2] 5 shall be consumer members ~~appointed with the~~  
30 ~~advice and consent of the Senate;~~ and

31 [(v)] (VII) 1 shall be a [consumer] PUBLIC member knowledgeable in  
32 risk management or quality assurance matters appointed from a list submitted by the  
33 Maryland Hospital Association.

34 (b) (1) Each consumer OR PUBLIC member of the Board:

35 [(1)] (I) Shall be a member of the general public;

36 [(2)] (II) SHALL BE A RESIDENT OF THE STATE FOR AT LEAST 5 YEARS;

1 (III) May not be or ever have been a physician or in training to  
2 become a physician;

3 [(3)] (IV) May not have a household member who is a physician or in  
4 training to become a physician;

5 [(4)] May not participate or ever have participated in a commercial or  
6 professional field related to medicine;

7 (5)] (V) May not have a household member who participates in a  
8 commercial or professional field related to medicine; and

9 [(6)] (VI) May not have had within 2 years before appointment a  
10 substantial financial interest in a person regulated by the Board.

11 (2) A CONSUMER MEMBER OF THE BOARD MAY NOT HAVE A  
12 SUBSTANTIAL PERSONAL, BUSINESS, PROFESSIONAL, OR PECUNIARY CONNECTION  
13 WITH A MEDICAL FIELD OR WITH AN INSTITUTION OF MEDICAL EDUCATION OR A  
14 HEALTH CARE FACILITY.

15 (c) [For each initial vacancy of a member appointed from a list submitted by  
16 the Faculty, the Faculty shall:

17 (1) Notify all licensed physicians in the State of the vacancy to solicit  
18 nominations to fill the vacancy; and

19 (2) Conduct a balloting process to select the name of the licensed  
20 physician that will be submitted to the Governor that provides all licensed physicians  
21 in the State with an equal vote.

22 (d) Once appointed, a physician named on the list submitted by the Faculty  
23 shall remain on the list for 2 consecutive full terms.

24 (e)] While SERVING AS a member of the Board, [a] EACH consumer member  
25 [may not have a substantial financial interest in a person regulated by the Board]  
26 AND THE PUBLIC MEMBER SHALL CONTINUE TO MEET THE REQUIREMENTS OF  
27 SUBSECTION (B) OF THIS SECTION.

28 (D) (1) ~~FOR EACH VACANCY OF A PRACTICING LICENSED PHYSICIAN~~  
29 ~~APPOINTED BY THE GOVERNOR WITH THE ADVICE OF THE SECRETARY UNDER IN~~  
30 ACCORDANCE WITH SUBSECTION (A)(2)(I) OF THIS SECTION, THE BOARD SHALL:

31 (I) NOTIFY ALL PRACTICING LICENSED PHYSICIANS AND  
32 PROFESSIONAL ORGANIZATIONS REPRESENTING AT LEAST 25 LICENSED PHYSICIANS  
33 IN THE STATE OF THE VACANCY;

34 (II) PROVIDE INFORMATION REGARDING THE SELECTION PROCESS  
35 AS PROVIDED UNDER SUBSECTION (A)(2)(I) OF THIS SECTION;

36 (III) SOLICIT NOMINATIONS FOR THE VACANCY; AND

1 (IV) FORWARD TO THE GOVERNOR:

2 1. VALID NOMINATIONS SUBMITTED BY PROFESSIONAL  
3 ORGANIZATIONS REPRESENTING AT LEAST 25 LICENSED PHYSICIANS IN THE STATE;  
4 AND

5 2. VALID PETITIONS SUBMITTED BY PRACTICING LICENSED  
6 PHYSICIANS.

7 (2) THE BOARD SHALL MEET THE REQUIREMENTS OF PARAGRAPH (1) OF  
8 THIS SUBSECTION WITHIN:

9 (I) 4 MONTHS PRIOR TO AN UPCOMING VACANCY ON THE BOARD;  
10 OR

11 (II) 2 MONTHS AFTER A VACANCY EXISTS ON THE BOARD.

12 (E) FOR EACH VACANCY OF A PRACTICING LICENSED PHYSICIAN APPOINTED  
13 ~~BY THE GOVERNOR UNDER~~ IN ACCORDANCE WITH SUBSECTION (A)(2)(I) OF THIS  
14 SECTION, THE GOVERNOR:

15 (1) MAY:

16 (I) REAPPOINT A MEMBER WHO HAS NOT SERVED FOR MORE THAN  
17 2 CONSECUTIVE FULL TERMS; OR

18 (II) APPOINT A PRACTICING LICENSED PHYSICIAN IN ACCORDANCE  
19 WITH SUBSECTION (A)(2)(I) OF THIS SECTION FROM LISTS SUBMITTED BY THE BOARD  
20 AS PROVIDED IN SUBSECTION (D)(1)(IV) OF THIS SECTION; AND

21 (2) MAY NOT REAPPOINT OR APPOINT A PRACTICING LICENSED  
22 PHYSICIAN FROM A PARTICULAR MEDICAL SPECIALTY IF THERE ARE TWO CURRENT  
23 MEMBERS SERVING ON THE BOARD FROM THE SAME MEDICAL SPECIALTY.

24 (f) (1) FOR THE VACANCY OF A CERTIFIED PHYSICIAN ASSISTANT  
25 APPOINTED IN ACCORDANCE WITH SUBSECTION (A)(2)(IV) OF THIS SECTION, THE  
26 BOARD SHALL:

27 (I) NOTIFY ALL PRACTICING CERTIFIED PHYSICIAN ASSISTANTS  
28 AND PROFESSIONAL ORGANIZATIONS REPRESENTING AT LEAST 25 CERTIFIED  
29 PHYSICIAN ASSISTANTS IN THE STATE OF THE VACANCY;

30 (II) PROVIDE INFORMATION REGARDING THE SELECTION PROCESS  
31 AS PROVIDED UNDER SUBSECTION (A)(2)(IV) OF THIS SECTION;

32 (III) SOLICIT NOMINATIONS FOR THE VACANCY; AND

33 (IV) FORWARD TO THE GOVERNOR;

1 1. VALID NOMINATIONS SUBMITTED BY PROFESSIONAL  
2 ORGANIZATIONS REPRESENTING AT LEAST 25 CERTIFIED PHYSICIAN ASSISTANTS IN  
3 THE STATE; AND

4 2. VALID PETITIONS SUBMITTED BY PRACTICING CERTIFIED  
5 PHYSICIAN ASSISTANTS SUPPORTING THE APPOINTMENT OF THE CERTIFIED  
6 PHYSICIAN ASSISTANT TO THE BOARD THAT ARE SIGNED BY AT LEAST 25  
7 PRACTICING CERTIFIED PHYSICIAN ASSISTANTS IN THE STATE.

8 (2) THE BOARD SHALL MEET THE REQUIREMENTS OF PARAGRAPH (1) OF  
9 THIS SUBSECTION WITHIN:

10 (I) 4 MONTHS PRIOR TO AN UPCOMING VACANCY ON THE BOARD;  
11 OR

12 (II) 2 MONTHS AFTER A VACANCY EXISTS ON THE BOARD.

13 (G) FOR EACH VACANCY OF A CERTIFIED PHYSICIAN ASSISTANT APPOINTED  
14 IN ACCORDANCE WITH SUBSECTION (A)(2)(IV) OF THIS SECTION, THE GOVERNOR  
15 MAY:

16 (1) REAPPOINT A MEMBER WHO HAS NOT SERVED FOR MORE THAN TWO  
17 CONSECUTIVE FULL TERMS; OR

18 (2) APPOINT A CERTIFIED PHYSICIAN ASSISTANT IN ACCORDANCE WITH  
19 SUBSECTION (A)(2)(IV) OF THIS SECTION FROM LISTS SUBMITTED BY THE BOARD AS  
20 PROVIDED IN SUBSECTION (F)(1)(IV) OF THIS SECTION.

21 (H) Before taking office, each appointee to the Board shall take the oath  
22 required by Article I, § 9 of the State Constitution.

23 ~~(g)~~ (I) (1) The term of a member is 4 years[, except that the initial term of  
24 one of the consumer members is 3 years].

25 (2) The terms of members are staggered as required by the terms  
26 provided for members of the Board on [July 1, 1988] AUGUST 1, 2003.

27 (3) At the end of a term, a member continues to serve until a successor is  
28 appointed and qualifies.

29 (4) A member may not serve more than 2 consecutive full terms.

30 ~~(h)~~ (J) (1) If a vacancy occurs as to a member, the Governor shall appoint  
31 a new member to serve only for the rest of the term and until a successor is appointed  
32 and qualifies.

33 (2) To the extent practicable, the Governor shall fill any vacancy on the  
34 Board within 60 days of the date of the vacancy.

1     ~~(J)~~     **(K)**     (1)     On the recommendation of the Board, the Secretary may  
 2 remove any member of the Board for neglect of duty, misconduct, malfeasance, or  
 3 misfeasance in office.

4             (2)     Upon the recommendation of the Secretary, the Governor may  
 5 remove a member whom the Secretary finds to have been absent from 2 successive  
 6 Board meetings without adequate reason.

7             (3)     The Governor may remove a member for incompetence or  
 8 misconduct.

9 14-203.

10     (a)     [The Governor shall appoint the chairman of the Board from among the  
 11 physician members on the Board.

12     (b)]     From among its members, the Board shall elect a CHAIRMAN,  
 13 secretary-treasurer, and any other officers that it considers necessary.

14     [(c)]     (B)     The Board shall determine:

15             (1)     The manner of election of officers;

16             (2)     The term of office of each officer; and

17             (3)     The duties of each officer.

18 14-207.

19     (a)     There is a Board of [Physician Quality Assurance] PHYSICIANS Fund.

20     (b)     (1)     The Board may set reasonable fees for the issuance and renewal of  
 21 licenses and its other services.

22             (2)     THE FEES CHARGED SHALL BE SET SO AS TO APPROXIMATE THE  
 23 COST OF MAINTAINING THE BOARD.

24             (3)     Funds to cover the compensation and expenses of the Board members  
 25 shall be generated by fees set under this section.

26     (c)     (1)     ~~Except for fees assessed in accordance with the provisions of §~~  
 27 ~~14-402(e) of this title, the~~ ~~THE~~ Board shall pay all fees collected under the provisions  
 28 of this title to the Comptroller of the State.

29             (2)     **(I)**     **The IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE**  
 30 **BUDGET AT LEAST \$750,000 FOR THE OPERATION OF THE HEALTH MANPOWER**  
 31 **SHORTAGE INCENTIVE PROGRAM UNDER § 18-803 OF THE EDUCATION ARTICLE AND**  
 32 **THE LOAN ASSISTANCE REPAYMENT PROGRAM FOR PRIMARY CARE SERVICES**  
 33 **UNDER § 18-1502(C) OF THE EDUCATION ARTICLE, AS ADMINISTERED BY THE**  
 34 **MARYLAND HIGHER EDUCATION COMMISSION, THE** Comptroller shall distribute:

1                   (+)    1.       14 percent of the fees received from the Board to the Office  
2 of Student Financial Assistance to be used as follows:

3                    ~~1.~~       A. One-half to make grants under the Health Manpower  
4 Shortage Incentive Grant Program under § 18-803 of the Education Article; and

5                    ~~2.~~       B. One-half to make grants under the Janet L. Hoffman  
6 Loan Assistance Repayment Program under § 18-1502(c) of the Education Article to  
7 physicians engaged in primary care or to medical residents specializing in primary  
8 care who agree to practice for at least 2 years as primary care physicians in a  
9 geographic area of the State that has been designated by the Secretary of Health and  
10 Mental Hygiene as being medically underserved; and

11                   (+)    2.       The balance of the fees to the Board of [Physician Quality  
12 Assurance] PHYSICIANS Fund.

13                   (II)    IF THE GOVERNOR INCLUDES IN THE STATE BUDGET AT LEAST  
14 \$750,000 FOR THE OPERATION OF THE HEALTH MANPOWER SHORTAGE INCENTIVE  
15 PROGRAM UNDER § 18-803 OF THE EDUCATION ARTICLE AND THE LOAN ASSISTANCE  
16 REPAYMENT PROGRAM FOR PRIMARY CARE SERVICES UNDER § 18-1502(C) OF THE  
17 EDUCATION ARTICLE, AS ADMINISTERED BY THE MARYLAND HIGHER EDUCATION  
18 COMMISSION, THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE BOARD OF  
19 PHYSICIANS FUND.

20       (d)    (1)    The Fund shall be used exclusively to cover the actual documented  
21 direct and indirect costs of fulfilling the statutory and regulatory duties of the Board  
22 as provided by the provisions of this title.

23               (2)    (i)    The Fund is a continuing, nonlapsing fund, not subject to §  
24 7-302 of the State Finance and Procurement Article.

25               (ii)   Any unspent portions of the Fund may not be transferred or  
26 revert to the General Fund of the State, but shall remain in the Fund to be used for  
27 the purposes specified in this title.

28               (3)    INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF  
29 MONEYS IN THE FUND SHALL BE PAID INTO THE FUND.

30               (4)    No other State money may be used to support the Fund.

31       (e)    (1)    IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (D) OF THIS  
32 SECTION, THE BOARD SHALL FUND THE BUDGET OF THE PHYSICIAN  
33 REHABILITATION COMMITTEE WITH FEES SET, COLLECTED, AND DISTRIBUTED TO  
34 THE FUND UNDER THIS TITLE.

35               (2)    AFTER REVIEW AND APPROVAL BY THE BOARD OF A BUDGET  
36 SUBMITTED BY THE PHYSICIAN REHABILITATION COMMITTEE, THE BOARD MAY  
37 ALLOCATE MONEYS FROM THE FUND TO THE PHYSICIAN REHABILITATION  
38 COMMITTEE.

1 (F) (1) The chairman of the Board or the designee of the chairman shall  
2 administer the Fund.

3 (2) Moneys in the Fund may be expended only for any lawful purpose  
4 authorized by the provisions of this title.

5 [(f)] (G) The Legislative Auditor shall audit the accounts and transactions of  
6 the Fund as provided in § 2-1220 of the State Government Article.

7 14-321.

8 (e) (1) Subject to the requirements of the Administrative Procedure Act, the  
9 Board on the affirmative vote of ~~its full authorized membership~~ A MAJORITY OF ITS  
10 QUORUM, may reprimand a restricted license holder, may place any restricted license  
11 holder on probation, or suspend or revoke a restricted license for any of the grounds  
12 for Board action under § 14-404 of this title.

13 (2) ~~THE BOARD MAY ONLY DISMISS A CASE AGAINST A RESTRICTED~~  
14 ~~LICENSE HOLDER ON THE AFFIRMATIVE VOTE OF ITS FULL AUTHORIZED~~  
15 ~~MEMBERSHIP~~ A MAJORITY OF ITS QUORUM.

16 14-401.

17 (a) The Board shall perform any necessary preliminary investigation before  
18 the Board refers to an investigatory body an allegation of grounds for disciplinary or  
19 other action brought to its attention.

20 (b) If an allegation of grounds for disciplinary or other action is made by a  
21 patient or a family member of a patient [in a standard of care case] BASED ON §  
22 14-404(A)(22) OF THIS SUBTITLE and a full investigation results from that allegation,  
23 the full investigation shall include an offer of an interview with the patient or a  
24 family member of the patient who was present on or about the time that the incident  
25 that gave rise to the allegation occurred.

26 (c) (1) Except as otherwise provided in this subsection, after performing any  
27 necessary preliminary investigation of an allegation of grounds for disciplinary or  
28 other action, the Board may:

29 (i) Refer the allegation for further investigation to the [Faculty]  
30 ENTITY THAT HAS CONTRACTED WITH THE BOARD UNDER SUBSECTION (E) OF THIS  
31 SECTION;

32 (ii) Take any appropriate and immediate action as necessary; or

33 (iii) Come to an agreement for corrective action with a licensee  
34 pursuant to paragraph (4) of this subsection.

35 (2) [(i)] After performing any necessary preliminary investigation of an  
36 allegation of grounds for disciplinary or other action, the Board shall refer any  
37 allegation [involving standards of medical care, as determined by the Board, and any

1 allegation based on § 14-404(a)(19) to the Faculty] BASED ON § 14-404(A)(22) OF THIS  
 2 SUBTITLE TO THE ENTITY OR ENTITIES THAT HAVE CONTRACTED WITH THE BOARD  
 3 UNDER SUBSECTION (E) OF THIS SECTION for further investigation and physician  
 4 peer review within the involved medical specialty or specialties.

5 [(ii) The Faculty may refer the allegation for investigation and  
 6 report to the appropriate:

- 7 1. County medical society; or  
 8 2. Committee of the Faculty.]

9 (3) If, after performing any necessary preliminary investigation, the  
 10 Board determines that an allegation involving fees for professional or ancillary  
 11 services does not constitute grounds for disciplinary or other action, the Board shall  
 12 offer the complainant and the licensee an opportunity to mediate the dispute.

13 (4) (i) [If the Board determines that an agreement for corrective  
 14 action is warranted and patient safety is not an issue, the Board shall notify the  
 15 licensee of the identified deficiencies and enter into an agreement for corrective  
 16 action, which may not be made public and which shall not be considered a disciplinary  
 17 action for purposes of this subtitle.] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF  
 18 THIS PARAGRAPH, IF AN ALLEGATION IS BASED ON § 14-404(40) OF THIS SUBTITLE,  
 19 THE BOARD:

20 1. MAY DETERMINE THAT AN AGREEMENT FOR CORRECTIVE  
 21 ACTION IS WARRANTED; AND

22 2. SHALL NOTIFY THE LICENSEE OF THE IDENTIFIED  
 23 DEFICIENCIES AND ENTER INTO AN AGREEMENT FOR CORRECTIVE ACTION WITH  
 24 THE LICENSEE AS PROVIDED IN THIS PARAGRAPH.

25 (II) THE BOARD MAY NOT ENTER INTO AN AGREEMENT FOR  
 26 CORRECTIVE ACTION WITH A LICENSEE IF PATIENT SAFETY IS AN ISSUE.

27 [(ii)] (III) The Board shall subsequently evaluate the licensee and  
 28 shall:

29 1. Terminate the corrective action if the Board is satisfied  
 30 that the licensee is in compliance with the agreement for corrective action and has  
 31 corrected the deficiencies; or

32 2. Pursue disciplinary action under § 14-404 of this subtitle  
 33 if the deficiencies persist or the licensee has failed to comply with the agreement for  
 34 corrective action.

35 (IV) AN AGREEMENT FOR CORRECTIVE ACTION UNDER THIS  
 36 PARAGRAPH MAY NOT BE MADE PUBLIC OR CONSIDERED A DISCIPLINARY ACTION  
 37 UNDER THIS TITLE.

1 [(iii)] (V) The Board shall provide a summary of the corrective  
2 action agreements in the executive director's report of Board activities.

3 (d) [(1)] ~~The Faculty, all committees of the Faculty, except the physician~~  
4 ~~rehabilitation committee, THE ENTITY OR ENTITIES WITH WHICH THE BOARD~~  
5 ~~CONTRACTS UNDER SUBSECTION (E) OF THIS SECTION, ALL COMMITTEES OF THE~~  
6 ~~ENTITY OR ENTITIES, EXCEPT FOR THE PHYSICIAN REHABILITATION COMMITTEE,~~  
7 and all county medical societies shall refer to the Board all complaints that set forth  
8 allegations of grounds for disciplinary action under § 14-404 of this subtitle.

9 [(2) If the Faculty determines that 3 or more malpractice claims have  
10 been filed against an individual licensed physician under § 3-2A-04(a) of the Courts  
11 and Judicial Proceedings Article within a 5-year period, the Faculty shall submit the  
12 name of the individual licensed physician to the Board and, subject to the approval of  
13 the Board, shall refer the claims to the Faculty's appropriate committee for  
14 investigation and report to the Board as if the Board had referred the claims to the  
15 committee of the Faculty.

16 (e) (1) (i) Unless the Board grants an extension, the medical society or  
17 Faculty committee shall report to the Board on its investigation within 90 days after  
18 the referral.

19 (ii) However, if the investigatory body does not complete its report  
20 within 90 days, the Board may refer the allegation to another investigatory body.

21 (2) The report shall contain the information and recommendations  
22 necessary for appropriate action by the Board.

23 (3) On receipt of the report, the Board shall consider the  
24 recommendations made in the report and take the action, including further  
25 investigation, that it finds appropriate under this title.]

26 (E) (1) ~~EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THE~~  
27 ~~BOARD SHALL ENTER INTO A WRITTEN CONTRACT WITH AN A NONPROFIT ENTITY OR~~  
28 ~~ENTITIES FOR FURTHER INVESTIGATION, PHYSICIAN REHABILITATION, AND~~  
29 ~~PHYSICIAN PEER REVIEW OF ALLEGATIONS BASED ON § 14-404(A)(22) OF THIS~~  
30 ~~SUBTITLE.~~

31 (2) THE NONPROFIT ENTITY OR ENTITIES SHALL EMPLOY REVIEWERS  
32 THAT:

33 (I) ARE BOARD CERTIFIED;

34 (II) HAVE SPECIAL QUALIFICATIONS TO JUDGE THE MATTER AT  
35 HAND;

36 (III) HAVE RECEIVED A SPECIFIED AMOUNT OF MEDICAL  
37 EXPERIENCE AND TRAINING;

38 (IV) HAVE NO FORMAL ACTIONS AGAINST THEIR OWN LICENSES;

1 (V) RECEIVE TRAINING IN PEER REVIEW; AND

2 (VI) HAVE A STANDARD FORMAT FOR PEER REVIEW REPORTS.

3 (3) THE NONPROFIT ENTITY OR ENTITIES SHALL MAKE A REASONABLE  
4 EFFORT TO EMPLOY PHYSICIANS THAT ARE LICENSED IN THE STATE.

5 (f) (1) (I) THE NONPROFIT ENTITY OR ENTITIES WITH WHICH THE BOARD  
6 CONTRACTS UNDER SUBSECTION (E) OF THIS SECTION SHALL HAVE 90 DAYS FOR  
7 COMPLETION OF PEER REVIEW.

8 (II) THE NONPROFIT ENTITY OR ENTITIES MAY APPLY TO THE  
9 BOARD FOR AN EXTENSION OF UP TO 30 DAYS TO THE TIME LIMIT IMPOSED UNDER  
10 SUBPARAGRAPH (I) OF THIS PARAGRAPH.

11 (III) IF AN EXTENSION IS NOT GRANTED, AND 90 DAYS HAVE  
12 ELAPSED, THE BOARD MAY CONTRACT WITH ANY OTHER ENTITY FOR THE SERVICES  
13 OF PEER REVIEW.

14 (IV) IF AN EXTENSION HAS BEEN GRANTED, AND 120 DAYS HAVE  
15 ELAPSED, THE BOARD MAY CONTRACT WITH ANY OTHER ENTITY FOR THE SERVICES  
16 OF PEER REVIEW.

17 (2) IF A PHYSICIAN HAS BEEN NONCOMPLIANT WITH A PHYSICIAN  
18 REHABILITATION COMMITTEE FOR 60 DAYS, THE PHYSICIAN REHABILITATION  
19 COMMITTEE SHALL REPORT THIS NONCOMPLIANCE TO THE BOARD.

20 (G) To facilitate the investigation and prosecution of disciplinary matters and  
21 the mediation of fee disputes coming before it, the Board may:

22 (i) Contract with the Faculty, its committees, and the component  
23 medical societies for the purchase of investigatory, mediation, and related services;  
24 and

25 (ii) Contract with others for the purchase of investigatory,  
26 mediation, and related services and make these services available to the Faculty, its  
27 committees, and the component medical societies.

28 (2) Services that may be contracted for under this subsection include the  
29 services of:

30 (i) Investigators;

31 (ii) Attorneys;

32 (iii) Accountants;

33 (iv) Expert witnesses;

34 (v) Consultants; and

1 (vi) Mediators.

2 ~~(g)~~ (H) The Board may issue subpoenas and administer oaths in connection  
3 with any investigation under this section and any hearing or proceeding before it.

4 ~~(h)~~ (I) Those individuals not licensed under this title but covered under §  
5 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of §  
6 14-405 of this subtitle.

7 ~~(i)~~ (J) (1) It is the intent of this section that the disposition of every  
8 complaint against a licensee that sets forth allegations of grounds for disciplinary  
9 action filed with the Board shall be completed as expeditiously as possible and, in any  
10 event, within 18 months after the complaint was received by the Board.

11 (2) If the Board is unable to complete the disposition of a complaint  
12 within 1 year, the Board shall include in the record of that complaint a detailed  
13 explanation of the reason for the delay.

14 14-402.

15 (a) In reviewing an application for licensure, certification, or registration or in  
16 investigating an allegation brought against a licensed physician or any allied health  
17 professional regulated by the Board under this title, the [medical society or Faculty  
18 committee] PHYSICIAN REHABILITATION COMMITTEE may request the Board to  
19 direct, or the Board on its own initiative may direct, the licensed physician or any  
20 allied health professional regulated by the Board under this title to submit to an  
21 appropriate examination.

22 (b) In return for the privilege given by the State issuing a license,  
23 certification, or registration, the licensed, certified, or registered individual is deemed  
24 to have:

25 (1) Consented to submit to an examination under this section, if  
26 requested by the Board in writing; and

27 (2) Waived any claim of privilege as to the testimony or examination  
28 reports.

29 (c) The unreasonable failure or refusal of the licensed, certified, or registered  
30 individual to submit to an examination is prima facie evidence of the licensed,  
31 certified, or registered individual's inability to practice medicine or the respective  
32 discipline competently, unless the Board finds that the failure or refusal was beyond  
33 the control of the licensed, certified, or registered individual.

34 (d) The Board shall pay the costs of any examination made under this section.

35 ~~(e)~~ ~~(i)~~ ~~(i)~~ The Board shall assess each applicant for a license to practice  
36 medicine or for renewal of a license to practice medicine a fee of not more than \$50 to  
37 be set after the submission of a budget for the physician rehabilitation program and  
38 peer review activities ~~by the Faculty to the Board.~~

1 (ii) The fee is to be used to fund the physician rehabilitation  
2 program and peer review activities of the Faculty, as approved by the Secretary.

3 (iii) The Board shall set a fee under this subsection in accordance  
4 with the budget submitted by the Faculty] ENTITY OR ENTITIES WITH WHICH THE  
5 BOARD CONTRACTS.

6 (F) (1) ~~THE FACULTY~~ ENTITY OR ENTITIES WITH WHICH THE BOARD  
7 CONTRACTS SHALL APPOINT THE MEMBERS OF THE PHYSICIAN REHABILITATION  
8 COMMITTEE.

9 (2) THE CHAIRMAN OF THE BOARD SHALL APPOINT ONE MEMBER OF  
10 THE BOARD TO SERVE AS A LIAISON TO THE PHYSICIAN REHABILITATION  
11 COMMITTEE.

12 (F) ~~THE BOARD SHALL FUND THE BUDGET OF THE PHYSICIAN~~  
13 ~~REHABILITATION COMMITTEE AS PROVIDED IN § 14-207 OF THIS TITLE.~~

14 [(2)] (G) The Legislative Auditor shall every 2 years audit the accounts  
15 and transactions of the [Faculty for the physician rehabilitation program and peer  
16 review activities] PHYSICIAN REHABILITATION COMMITTEE as provided in § 2-1220  
17 of the State Government Article.

18 14-404.

19 (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on  
20 the affirmative vote of a majority of its ~~full authorized membership~~ THE QUORUM,  
21 may reprimand any licensee, place any licensee on probation, or suspend or revoke a  
22 license if the licensee:

23 (1) Fraudulently or deceptively obtains or attempts to obtain a license  
24 for the applicant or licensee or for another;

25 (2) Fraudulently or deceptively uses a license;

26 (3) Is guilty of immoral or unprofessional conduct in the practice of  
27 medicine;

28 (4) Is professionally, physically, or mentally incompetent;

29 (5) Solicits or advertises in violation of § 14-503 of this title;

30 (6) Abandons a patient;

31 (7) Habitually is intoxicated;

32 (8) Is addicted to, or habitually abuses, any narcotic or controlled  
33 dangerous substance as defined in § 5-101 of the Criminal Law Article;

34 (9) Provides professional services:

- 1 (i) While under the influence of alcohol; or
- 2 (ii) While using any narcotic or controlled dangerous substance, as  
3 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of  
4 therapeutic amounts or without valid medical indication;
- 5 (10) Promotes the sale of drugs, devices, appliances, or goods to a patient  
6 so as to exploit the patient for financial gain;
- 7 (11) Willfully makes or files a false report or record in the practice of  
8 medicine;
- 9 (12) Willfully fails to file or record any medical report as required under  
10 law, willfully impedes or obstructs the filing or recording of the report, or induces  
11 another to fail to file or record the report;
- 12 (13) On proper request, and in accordance with the provisions of Title 4,  
13 Subtitle 3 of the Health - General Article, fails to provide details of a patient's  
14 medical record to the patient, another physician, or hospital;
- 15 (14) Solicits professional patronage through an agent or other person or  
16 profits from the acts of a person who is represented as an agent of the physician;
- 17 (15) Pays or agrees to pay any sum to any person for bringing or referring  
18 a patient or accepts or agrees to accept any sum from any person for bringing or  
19 referring a patient;
- 20 (16) Agrees with a clinical or bioanalytical laboratory to make payments  
21 to the laboratory for a test or test series for a patient, unless the licensed physician  
22 discloses on the bill to the patient or third-party payor:
- 23 (i) The name of the laboratory;
- 24 (ii) The amount paid to the laboratory for the test or test series; and
- 25 (iii) The amount of procurement or processing charge of the licensed  
26 physician, if any, for each specimen taken;
- 27 (17) Makes a willful misrepresentation in treatment;
- 28 (18) Practices medicine with an unauthorized person or aids an  
29 unauthorized person in the practice of medicine;
- 30 (19) Grossly overutilizes health care services;
- 31 (20) Offers, undertakes, or agrees to cure or treat disease by a secret  
32 method, treatment, or medicine;
- 33 (21) Is disciplined by a licensing or disciplinary authority or convicted or  
34 disciplined by a court of any state or country or disciplined by any branch of the

1 United States uniformed services or the Veterans' Administration for an act that  
2 would be grounds for disciplinary action under this section;

3 (22) Fails to meet appropriate standards as determined by appropriate  
4 peer review for the delivery of quality medical and surgical care performed in an  
5 outpatient surgical facility, office, hospital, or any other location in this State;

6 (23) Willfully submits false statements to collect fees for which services  
7 are not provided;

8 (24) Was subject to investigation or disciplinary action by a licensing or  
9 disciplinary authority or by a court of any state or country for an act that would be  
10 grounds for disciplinary action under this section and the licensee:

11 (i) Surrendered the license issued by the state or country to the  
12 state or country; or

13 (ii) Allowed the license issued by the state or country to expire or  
14 lapse;

15 (25) Knowingly fails to report suspected child abuse in violation of § 5-704  
16 of the Family Law Article;

17 (26) Fails to educate a patient being treated for breast cancer of  
18 alternative methods of treatment as required by § 20-113 of the Health - General  
19 Article;

20 (27) Sells, prescribes, gives away, or administers drugs for illegal or  
21 illegitimate medical purposes;

22 (28) Fails to comply with the provisions of § 12-102 of this article;

23 (29) Refuses, withholds from, denies, or discriminates against an  
24 individual with regard to the provision of professional services for which the licensee  
25 is licensed and qualified to render because the individual is HIV positive;

26 (30) Except as to an association that has remained in continuous  
27 existence since July 1, 1963:

28 (i) Associates with a pharmacist as a partner or co-owner of a  
29 pharmacy for the purpose of operating a pharmacy;

30 (ii) Employs a pharmacist for the purpose of operating a pharmacy;  
31 or

32 (iii) Contracts with a pharmacist for the purpose of operating a  
33 pharmacy;

34 (31) Except in an emergency life-threatening situation where it is not  
35 feasible or practicable, fails to comply with the Centers for Disease Control's  
36 guidelines on universal precautions;

- 1 (32) Fails to display the notice required under § 14-415 of this title;
- 2 (33) Fails to cooperate with a lawful investigation conducted by the  
3 Board;
- 4 (34) Is convicted of insurance fraud as defined in § 27-801 of the  
5 Insurance Article;
- 6 (35) Is in breach of a service obligation resulting from the applicant's or  
7 licensee's receipt of State or federal funding for the licensee's medical education;
- 8 (36) Willfully makes a false representation when seeking or making  
9 application for licensure or any other application related to the practice of medicine;
- 10 (37) By corrupt means, threats, or force, intimidates or influences, or  
11 attempts to intimidate or influence, for the purpose of causing any person to withhold  
12 or change testimony in hearings or proceedings before the Board or those otherwise  
13 delegated to the Office of Administrative Hearings;
- 14 (38) By corrupt means, threats, or force, hinders, prevents, or otherwise  
15 delays any person from making information available to the Board in furtherance of  
16 any investigation of the Board;
- 17 (39) Intentionally misrepresents credentials for the purpose of testifying  
18 or rendering an expert opinion in hearings or proceedings before the Board or those  
19 otherwise delegated to the Office of Administrative Hearings; or
- 20 (40) Fails to keep adequate medical records as determined by appropriate  
21 peer review.
- 22 (b) (1) On the filing of certified docket entries with the Board by the Office  
23 of the Attorney General, the Board shall order the suspension of a license if the  
24 licensee is convicted of or pleads guilty or nolo contendere with respect to a crime  
25 involving moral turpitude, whether or not any appeal or other proceeding is pending  
26 to have the conviction or plea set aside.
- 27 (2) After completion of the appellate process if the conviction has not  
28 been reversed or the plea has not been set aside with respect to a crime involving  
29 moral turpitude, the Board shall order the revocation of a license on the certification  
30 by the Office of the Attorney General.
- 31 14-405.
- 32 (a) Except as otherwise provided in the Administrative Procedure Act, before  
33 the Board takes any action under § 14-404(a) of this subtitle or § 14-5A-17(a) of this  
34 title, it shall give the individual against whom the action is contemplated an  
35 opportunity for a hearing before a hearing officer ~~OR THE SUBCOMMITTEE OF THE~~  
36 ~~BOARD ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.~~

1 ~~(B) THE CHAIRMAN OF THE BOARD MAY DELEGATE THE AUTHORITY TO~~  
 2 ~~CONDUCT A HEARING TO A SUBCOMMITTEE CONSISTING OF THREE OR MORE BOARD~~  
 3 ~~MEMBERS.~~

4 ~~{(b)}~~ ~~(C)~~ (1) The hearing officer ~~OR THE SUBCOMMITTEE OF THE BOARD~~  
 5 shall give notice and hold the hearing in accordance with the Administrative  
 6 Procedure Act [except that factual findings shall be supported by clear and  
 7 convincing evidence].

8 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,  
 9 FACTUAL FINDINGS SHALL BE SUPPORTED BY A PREPONDERANCE OF THE  
 10 EVIDENCE.

11 (3) FACTUAL FINDINGS SHALL BE SUPPORTED BY CLEAR AND  
 12 CONVINCING EVIDENCE IF THE CHARGE OF THE BOARD IS BASED ON § 14-404(A)(22),  
 13 § 14-5A-17(A)(18), OR § 14-5B-14(A)(18) OF THIS TITLE.

14 ~~{(c)}~~ ~~(D)~~ The individual may be represented at the hearing by counsel.

15 ~~{(d)}~~ ~~(E)~~ If after due notice the individual against whom the action is  
 16 contemplated fails or refuses to appear, nevertheless the hearing officer ~~OR THE~~  
 17 ~~SUBCOMMITTEE OF THE BOARD~~ may hear and refer the matter to the Board for  
 18 disposition.

19 ~~{(e)}~~ ~~(F)~~ After performing any necessary hearing under this section, the  
 20 hearing officer ~~OR THE SUBCOMMITTEE OF THE BOARD~~ shall refer proposed factual  
 21 findings to the Board for the Board's disposition.

22 ~~{(f)}~~ ~~(G)~~ The Board may adopt regulations to govern the taking of depositions  
 23 and discovery in the hearing of charges.

24 ~~{(g)}~~ ~~(H)~~ The hearing of charges may not be stayed or challenged by any  
 25 procedural defects alleged to have occurred prior to the filing of charges.

26 14-406.

27 (a) Following the filing of charges, if a majority of the ~~full authorized~~  
 28 ~~membership~~ QUORUM of the Board finds that there are grounds for action under §  
 29 14-404 of this subtitle, the Board shall pass an order in accordance with the  
 30 Administrative Procedure Act.

31 (b) After the charges are filed, if the Board finds, ON AN AFFIRMATIVE VOTE  
 32 OF ITS FULL AUTHORIZED MEMBERSHIP A MAJORITY OF ITS QUORUM, that there are  
 33 no grounds for action under § 14-404 of this subtitle, the Board:

34 (1) Immediately shall dismiss the charges and exonerate the licensee;

35 (2) (i) Except as provided in item (ii) of this paragraph, shall expunge  
 36 all records of the charges 3 years after the charges are dismissed; or

1 (ii) If the physician executes a document releasing the Board from  
 2 any liability related to the charges, shall immediately expunge all records of the  
 3 charges; and

4 (3) May not take any further action on the charges.

5 14-411.1.

6 (a) [(1)] In this section, "health maintenance organization" has the meaning  
 7 stated in § 19-701 of the Health - General Article.

8 (b) The Board shall create [an] AND MAINTAIN A PUBLIC individual profile on  
 9 each licensee that includes the following information:

10 (1) A description of any disciplinary action taken by the Board against  
 11 the licensee within the most recent 10-year period ~~as reported to the National~~  
 12 ~~Practitioner Data Bank~~ THAT INCLUDES A COPY OF THE PUBLIC ORDER;

13 (2) A description IN SUMMARY FORM of any final disciplinary action  
 14 taken by a licensing board in any other state or jurisdiction against the licensee  
 15 within the most recent 10-year period ~~as reported to the National Practitioner Data~~  
 16 ~~Bank~~;

17 (3) THE NUMBER OF MEDICAL MALPRACTICE FINAL COURT JUDGMENTS  
 18 AND ARBITRATION AWARDS AGAINST THE LICENSEE WITHIN THE MOST RECENT  
 19 10-YEAR PERIOD FOR WHICH ALL APPEALS HAVE BEEN EXHAUSTED AS REPORTED  
 20 TO THE BOARD;

21 (4) THE NUMBER OF MEDICAL MALPRACTICE SETTLEMENTS INVOLVING  
 22 THE LICENSEE IF THERE ARE THREE OR MORE WITH A SETTLEMENT AMOUNT OF  
 23 \$150,000 OR GREATER WITHIN THE MOST RECENT 40 5-YEAR PERIOD AS REPORTED  
 24 TO THE BOARD;

25 ~~(5) A DESCRIPTION OF ANY ACTIONS RELATING TO THE LICENSEE THAT~~  
 26 ~~MIGHT BE GROUNDS FOR DISCIPLINARY ACTION UNDER § 14-404 OF THIS SUBTITLE~~  
 27 ~~THAT ARE REPORTED TO THE BOARD BY HOSPITALS OR RELATED INSTITUTIONS~~  
 28 ~~UNDER § 14-413(A) OF THIS SUBTITLE WITHIN THE MOST RECENT 10-YEAR PERIOD;~~

29 ~~(6) (5)~~ A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY  
 30 OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL  
 31 TURPITUDE REPORTED TO THE BOARD UNDER § 14-413(B) OF THIS SUBTITLE; AND

32 ~~(7) (6)~~ MEDICAL EDUCATION AND PRACTICE INFORMATION ABOUT THE  
 33 LICENSEE INCLUDING:

34 [(3)] (I) The name of any medical school that the licensee attended and  
 35 the date on which the licensee graduated from the school;

36 [(4)] (II) A description of any internship and residency training;

1            [(5)]    (III)    A description of any specialty board certification by a recognized  
2 board of the American Board of Medical Specialties or the American Osteopathic  
3 Association;

4            [(6)]    (IV)    The name of any hospital where the licensee has medical  
5 privileges as reported to the Board under § 14-413 of this subtitle;

6            [(7)]    (V)     The location of the licensee's primary practice setting; and

7            [(8)]    (VI)    Whether the licensee participates in the Maryland Medical  
8 Assistance Program.

9        (c)     In addition to the requirements of subsection (b) of this section, the Board  
10 shall:

11            (1)     [provide] PROVIDE appropriate and accessible Internet links from  
12 the Board's Internet site:

13            [(1)]    (I)     To the extent available, to the appropriate portion of the  
14 Internet site of each health maintenance organization licensed in this State which  
15 will allow the public to ascertain the names of the physicians affiliated with the  
16 health maintenance organization; and

17            [(2)]    (II)    To the appropriate portion of the Internet site of the American  
18 Medical Association; AND

19            (2)     INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF  
20 INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING  
21 A LICENSEE'S PROFILE, INCLUDING FACTORS TO CONSIDER WHEN EVALUATING A  
22 LICENSEE'S MALPRACTICE DATA.

23        (d)     The Board:

24            (1)     On receipt of a written request for a licensee's profile from any  
25 person, shall forward a written copy of the profile to the person; and

26            (2)     Shall [make all profiles] MAINTAIN A WEBSITE THAT SERVES AS A  
27 SINGLE POINT OF ENTRY WHERE ALL PHYSICIAN PROFILE INFORMATION IS available  
28 to the public on the Internet.

29        (e)     [Subject to subsection (f) of this section, before making a profile initially  
30 available to the public under subsection (d) of this section, the Board shall:

31            (1)     Unless the licensee authorizes and requests a copy of the licensee's  
32 profile by electronic means, provide a licensee with a written copy of the licensee's  
33 profile; and

34            (2)     Provide a reasonable period for the licensee to correct any factual  
35 inaccuracies in the profile.] THE BOARD SHALL PROVIDE A MECHANISM FOR THE

1 NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A  
2 LICENSEE'S PROFILE.

3 (f) The Board shall include information relating to a final disciplinary action  
4 taken by the Board against a licensee in the licensee's profile within 10 days after the  
5 action becomes final.

6 (g) This section does not limit the Board's authority to disclose information as  
7 required under § 14-411 of this subtitle.

8 14-413.

9 (a) (1) Every 6 months, each hospital and related institution shall file with  
10 the Board a report that:

11 (i) Contains the name of each licensed physician who, during the 6  
12 months preceding the report:

- 13 1. Is employed by the hospital or related institution;  
14 2. Has privileges with the hospital or related institution; and  
15 3. Has applied for privileges with the hospital or related  
16 institution; and

17 (ii) States whether, as to each licensed physician, during the 6  
18 months preceding the report:

19 1. The hospital or related institution denied the application  
20 of a physician for staff privileges or limited, reduced, otherwise changed, or  
21 terminated the staff privileges of a physician, or the physician resigned whether or  
22 not under formal accusation, if the denial, limitation, reduction, change, termination,  
23 or resignation is for reasons that might be grounds for disciplinary action under §  
24 14-404 of this subtitle;

25 2. The hospital or related institution took any disciplinary  
26 action against a salaried, licensed physician without staff privileges, including  
27 termination of employment, suspension, or probation, for reasons that might be  
28 grounds for disciplinary action under § 14-404 of this subtitle;

29 3. The hospital or related institution took any disciplinary  
30 action against an individual in a postgraduate medical training program, including  
31 removal from the training program, suspension, or probation for reasons that might  
32 be grounds for disciplinary action under § 14-404 of this subtitle;

33 4. A licensed physician or an individual in a postgraduate  
34 training program voluntarily resigned from the staff, employ, or training program of  
35 the hospital or related institution for reasons that might be grounds for disciplinary  
36 action under § 14-404 of this subtitle; or





1 (51) [Physician Quality Assurance] PHYSICIANS, State Board of (§  
2 14-201 of the Health Occupations Article: July 1, [2002] 2006);

3 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~  
4 ~~read as follows:~~

5 ~~Article—Health Occupations~~

6 ~~14-207.~~

7 ~~(e) (1) The Board shall pay all fees collected under the provisions of this title~~  
8 ~~to the Comptroller of the State.~~

9 ~~(2) The Comptroller shall distribute:~~

10 ~~(i) 14 percent of the fees received from the Board to the Office of~~  
11 ~~Student Financial Assistance to be used as follows:~~

12 ~~1. One half to make grants under the Health Manpower~~  
13 ~~Shortage Incentive Grant Program under § 18-803 of the Education Article; and~~

14 ~~2. One half to make grants under the Janet L. Hoffman~~  
15 ~~Loan Assistance Repayment Program under 18-1502(c) of the Education Article to~~  
16 ~~physicians engaged in primary care or to medical residents specializing in primary~~  
17 ~~care who agree to practice for at least 2 years as primary care physicians in a~~  
18 ~~geographic area of the State that has been designated by the Secretary of Health and~~  
19 ~~Mental Hygiene as being medically underserved; and~~

20 ~~(ii) The balance of] the fees to the Board of [Physician Quality~~  
21 ~~Assurance] PHYSICIANS Fund.~~

22 ~~SECTION 3. 2. AND BE IT FURTHER ENACTED, That the term of office of~~  
23 ~~each member of the State Board of Physicians who is serving on the Board on the~~  
24 ~~effective date of this Act shall expire on ~~July 30~~ July 31, 2003.~~

25 ~~SECTION 4. 3. AND BE IT FURTHER ENACTED, That on August 1, 2003, the~~  
26 ~~Governor, with the advice of the Secretary of Health and Mental Hygiene and the~~  
27 ~~advice and consent of the Senate, shall appoint a new State Board of Physicians in~~  
28 ~~accordance with the provisions of § 14-202 of the Health Occupations Article.~~

29 ~~SECTION 5. 4. AND BE IT FURTHER ENACTED, That the terms of the~~  
30 ~~members of the State Board of Physicians appointed on August 1, 2003 shall expire as~~  
31 ~~follows:~~

32 (1) four physician members and one consumer member in 2005;

33 (2) four physician members and one consumer member in 2006;

34 (3) four physician members and one consumer member in 2007; and

1 (4) four physician members and two consumer members in 2008.

2 ~~SECTION 6. AND BE IT FURTHER ENACTED, That the State Board of~~  
3 ~~Physicians shall report to the Governor, the Senate Education, Health, and~~  
4 ~~Environmental Affairs Committee, the Senate Budget and Taxation Committee, the~~  
5 ~~House Health and Government Operations Committee, and the House Appropriations~~  
6 ~~Committee on or before November 1, 2003, in accordance with § 2-1246 of the State~~  
7 ~~Government Article, on the financial condition of the Board, including a review of the~~  
8 ~~impact of any legislation enacted in 2003 and a review of the impact of any~~  
9 ~~procedural, regulatory, or other changes implemented by the Board. If the Board~~  
10 ~~determines that legislation enacted in 2003 will not resolve the financial condition of~~  
11 ~~the Board, the report shall detail how the Board intends to:~~

- 12 (1) ~~stabilize long-term finances of the Board;~~  
13 (2) ~~achieve necessary fund balances; and~~  
14 (3) ~~fully meet the responsibilities and mission of the Board.~~

15 ~~SECTION 7. 5. AND BE IT FURTHER ENACTED, That the State Board of~~  
16 ~~Physicians shall report to the Governor, the Senate Education, Health, and~~  
17 ~~Environmental Affairs Committee, and the House Health and Government~~  
18 ~~Operations Committee on or before January 1, 2004, in accordance with § 2-1246 of~~  
19 ~~the State Government Article, on investigative caseloads of Board investigators~~  
20 ~~including:~~

- 21 (1) the optimal level of caseloads;  
22 (2) additional tools required to improve investigator productivity;  
23 (3) a fiscal estimate of the resources required to meet optimal caseload levels  
24 and provide necessary tools to improve productivity; and  
25 (4) a detailed plan to address the expenditures identified in the fiscal  
26 estimate.

27 ~~SECTION 8. 6. AND BE IT FURTHER ENACTED, That on or before January~~  
28 ~~1, 2004, the State Board of Physicians and the Office of the Attorney General (OAG)~~  
29 ~~shall:~~

- 30 (1) review all aspects of the Board investigative processes;  
31 (2) recommend a revised investigative process that will ensure in a consistent  
32 manner that all cases transmitted to the OAG are fully investigated and developed to  
33 the satisfaction of both the Board and the OAG so that cases can proceed with the  
34 minimum of additional delay after transmittal; and  
35 (3) in accordance with § 2-1246 of the State Government Article, report to the  
36 Governor, the Senate Education, Health, and Environmental Affairs Committee, and  
37 the House Health and Government Operations Committee on the findings,

1 recommendations, and any legislative or regulatory changes necessary to implement  
2 the recommended changes.

3 SECTION ~~9-7.~~ AND BE IT FURTHER ENACTED, That the State Board of  
4 Physicians, in conducting ~~an Exceptions Hearing a Case Resolution Conference~~ as  
5 provided in COMAR ~~10.32.02.03F~~ 10.32.02.03C(7), shall provide an opportunity to  
6 appear before the Board to both the licensee who has been charged and the individual  
7 who has filed the complaint against the licensee giving rise to the charge and shall  
8 adopt regulations to implement this section.

9 SECTION ~~40- 8.~~ AND BE IT FURTHER ENACTED, That the entity or entities  
10 with which the State Board of Physicians contracts under § 14-401(e) of the Health  
11 Occupations Article for further investigation and peer review of allegations based on  
12 § 14-404(a)(22) of the Health Occupations Article shall utilize two peer reviewers, and  
13 in the event of a lack of agreement between the two reviewers, the Board shall utilize  
14 a third reviewer to render a final peer review decision.

15 SECTION ~~44- 9.~~ AND BE IT FURTHER ENACTED, That the provisions of §  
16 8-404 of the State Government Article requiring a preliminary evaluation do not  
17 apply to the State Board of Physicians prior to the evaluation required on or before  
18 July 1, 2006.

19 SECTION ~~12.~~ AND BE IT FURTHER ENACTED, ~~That Section 2 of this Act~~  
20 ~~shall take effect July 1, 2004 contingent on the Governor including in the budget for~~  
21 ~~fiscal year 2005 at least \$750,000 for the operation of the Health Manpower Shortage~~  
22 ~~Incentive Grant Program and the Loan Assistance Repayment Program – Primary~~  
23 ~~Care Services administered by the Maryland Higher Education Commission.~~

24 SECTION ~~43- 10.~~ AND BE IT FURTHER ENACTED, That the publisher of the  
25 Annotated Code, in consultation with, and subject to the approval of the Department  
26 of Legislative Services, shall correct all references to the Board of Physician Quality  
27 Assurance rendered incorrect by this Act.

28 SECTION ~~44- 11.~~ AND BE IT FURTHER ENACTED, ~~That, except as provided~~  
29 ~~in Section 12 of this Act,~~ That the State Board of Physicians and the Department of  
30 Health and Mental Hygiene shall report to the Senate Education, Health, and  
31 Environmental Affairs Committee and the House Health and Government Operations  
32 Committee through both a written report, and an oral presentation, on or before  
33 December 1 of 2003, 2004, and 2005, in accordance with § 2-1246 of the State  
34 Government Article, on the implementation of the changes to Titles 14 and 15 of the  
35 Health Occupations Article contained within this Act.

36 SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take effect  
37 July 1, 2003.

