

HOUSE BILL 282

J2

(7lr1109)

ENROLLED BILL

— *Health and Government Operations / Education, Health, and Environmental Affairs* —
Introduced by **Delegate Hammen (Chair, Health and Government Operations Committee)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Board of Physicians – Sunset Extension and Program Evaluation**

3 FOR the purpose of authorizing certain regulatory boards to investigate certain
4 claims; continuing the State Board of Physicians in accordance with the
5 provisions of the Maryland Program Evaluation Act (Sunset Law) by extending
6 to a certain date the termination provisions relating to the statutory and
7 regulatory authority of the Board; requiring that an evaluation of the Board and
8 the statutes and regulations that relate to the Board be performed on or before
9 a certain date; repealing a provision of law requiring the Board to elect a
10 secretary–treasurer; authorizing the Board’s executive director or other duly

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.

Italics indicate opposite chamber / conference committee amendments.



1 authorized agent or investigator of the Board to enter certain premises under
2 certain circumstances; altering the percentages of certain fees required to be
3 distributed in certain fiscal years from the Board to the Office of Student
4 Financial Assistance within the Maryland Higher Education Commission for
5 certain uses under certain circumstances; requiring applicants for licensure by
6 the Board to submit to a certain criminal history records check; prohibiting a
7 certain applicant who has a certain disciplinary order in another state from
8 qualifying for a license under certain circumstances; requiring certain
9 applicants to submit certain fingerprints and certain fees to the Criminal
10 Justice Information System Central Repository of the Department of Public
11 Safety and Correctional Services under certain circumstances; requiring the
12 Central Repository to forward certain information to the Board and to certain
13 applicants; providing that certain information is confidential and may be used
14 only for certain purposes; authorizing certain subjects to contest certain
15 contents of certain printed statements; requiring certain applicants for
16 licensure to submit certain evidence to the Board; prohibiting the Board from
17 issuing certain licenses if certain criminal history record information has not
18 been received; authorizing the Board to impose a certain civil penalty *in lieu of*
19 *certain sanctions* for a licensee's failure to obtain the required continuing
20 medical education credits under certain circumstances; requiring the Board to
21 develop a pilot program for continuing competency for licensed physicians that
22 addresses a physician's ability to practice medicine; authorizing a certain pilot
23 program to be implemented in a certain teaching hospital; authorizing the
24 Board to provide technical assistance and financial support to a certain teaching
25 hospital for a continuing competency pilot program; requiring the Board to issue
26 a certain report on or before a certain date including certain information;
27 altering the persons with which the Board must contract for peer review
28 services; requiring the Board to obtain a certain number of peer review reports
29 for certain allegations; altering certain qualifications a peer reviewer must
30 meet; authorizing the Board to consult with certain societies to establish a list
31 of physicians qualified to provide peer review services; authorizing the Board to
32 use sole source procurement under certain circumstances; *prohibiting certain*
33 *stays of challenges because of the selection of certain peer reviewers prior to*
34 *certain filings*; repealing a provision requiring the Physician Rehabilitation
35 Committee to report certain noncompliance by a physician to the Board;
36 requiring the Board to provide services for physician rehabilitation or contract
37 with an entity or entities for physician rehabilitation; requiring the Board to
38 issue a request for proposals and enter into a certain contract with a nonprofit
39 entity to provide certain rehabilitation services on or before a certain date;
40 requiring the Board to directly provide certain rehabilitation services under
41 certain circumstances; altering certain requirements that the Board contract
42 with an entity or entities for further investigation and physician peer review
43 investigatory, mediation, and related services; repealing provisions of law

1 requiring the Board to assess certain applicants a fee for physician
2 rehabilitation and peer review activities; establishing separate grounds for
3 disciplinary action for immoral conduct and unprofessional conduct; authorizing
4 the Board to disclose certain licensee information to the National Practitioner
5 Data Bank under certain circumstances; ~~modifying the criteria for the reporting~~
6 ~~of medical malpractice claims and settlement information on the individual~~
7 ~~licensee profiles~~ *repealing the requirement that certain medical malpractice*
8 *settlement information be available as part of a licensee's public individual*
9 *profile; requiring the Board to provide certain notification regarding certain*
10 *malpractice settlement information on the Board's Internet site; requiring the*
11 *Board to provide certain information within a certain period of time; requiring*
12 ~~proceedings of the Board or the hearing officer to be open to the public under~~
13 ~~certain circumstances; authorizing the Board or hearing officer to close~~
14 ~~proceedings under certain circumstances; requiring the Board to adopt certain~~
15 ~~regulations; requiring the Administrative Office of the Courts and the Chief~~
16 ~~Judge of the District Court, in collaboration with the Board, to develop a certain~~
17 ~~procedure for required reporting;~~ altering certain confidentiality requirements
18 so as to require that certain records and other information relating to the
19 records of a proceeding or transaction before an entity or ~~entities~~ individual that
20 ~~contract~~ contracts with the Board are confidential; authorizing the Board to
21 impose a certain civil penalty for failure to file certain reports with the Board;
22 prohibiting certain entities from employing certain individuals without a
23 certificate; authorizing the Board to impose a certain civil penalty for employing
24 certain uncertified individuals; ~~requiring the Comptroller to distribute certain~~
25 ~~funds for certain programs administered by the Maryland Higher Education~~
26 ~~Commission under certain circumstances;~~ repealing provisions of law requiring
27 the Comptroller to distribute certain fees received from the Board to the
28 General Fund; ~~providing that the Insurance Commissioner, instead of certain~~
29 ~~regulatory boards, determines if certain payments were provided as a result of a~~
30 ~~prohibited referral;~~ extending to a certain date the termination provision
31 relating to the statutory and regulatory authority of the Polysomnography
32 Professional Standards Committee; altering certain definitions; defining a
33 certain term; making technical changes; repealing certain provisions requiring
34 the Board to establish or designate a training program for certain physicians on
35 or before a certain date; repealing certain provisions requiring the Board to
36 inform physicians about the availability of certain training and experience;
37 authorizing the Board to adopt certain regulations to qualify certain physicians
38 to practice certain opioid addiction therapy; repealing certain provisions of law
39 relating to the use of peer reviewers by a certain entity or entities and the
40 Board; requiring the Board to make certain regulatory changes on or before a
41 certain date; requiring the Secretary of Health and Mental Hygiene to
42 standardize investigator job classifications within the Board on or before a
43 certain date; *requiring the Board to provide certain training to certain personnel*

1 of the Office of Administrative Hearings; requiring the Department of Health
 2 and Mental Hygiene and the Office of the Attorney General to review a certain
 3 process for investigating self-referral cases and make certain recommendations
 4 on or before a certain date; requiring the Board to submit a certain report
 5 regarding certain disagreement among certain peer reviewers on or before a
 6 certain date; ~~requiring the Governor to include funding for certain new regular~~
 7 ~~positions for the Board in the annual budget bill for a certain fiscal year;~~
 8 requiring the Chief Administrative Law Judge to designate certain
 9 administrative law judges to hear certain cases referred by the Board; exempting
 10 the Board from certain provisions of law requiring a certain preliminary
 11 evaluation; and generally relating to the State Board of Physicians.

12 BY repealing and reenacting, with amendments,

13 Article – Health Occupations

14 Section ~~1-306~~, 14-101, 14-203(a), 14-206(d)(1), 14-207, ~~14-307(a) and (f),~~
 15 ~~14-309(a), 14-313,~~ 14-316(d), 14-401, 14-402, ~~14-404(a)(3), 14-405,~~
 16 ~~14-411(b) and (c)~~ 14-411(c), 14-411.1(b)(4), 14-411.1(b), (c), and (d),
 17 ~~14-413(b), 14-414(b),~~ 14-506, 14-5B-08, 14-5C-25, 14-702, and 15-206

18 Annotated Code of Maryland

19 (2005 Replacement Volume and 2006 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article – Health Occupations

22 Section 14-316(e), 14-411(a) and (b), 14-411.1(b)(3), 14-5A-18(a), 14-5B-15(a),
 23 and 14-5C-18(a)

24 Annotated Code of Maryland

25 (2005 Replacement Volume and 2006 Supplement)

26 BY adding to

27 Article – Health Occupations

28 Section ~~14-307.1, 14-322, 14-411.2,~~ 14-5A-18(g), 14-5B-15(g), and
 29 14-5C-18(g)

30 Annotated Code of Maryland

31 (2005 Replacement Volume and 2006 Supplement)

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

33 ~~Article – Insurance~~

34 ~~Section 15-110~~

35 ~~Annotated Code of Maryland~~

36 ~~(2006 Replacement Volume and 2006 Supplement)~~

37 BY repealing and reenacting, with amendments,

38 Article – State Government

1 Section 8–403(b)(49) and (53)
2 Annotated Code of Maryland
3 (2004 Replacement Volume and 2006 Supplement)

4 BY repealing and reenacting, with amendments,
5 Chapter 220 of the Acts of the General Assembly of 2003
6 Section 1

7 BY repealing
8 Chapter 252 of the Acts of the General Assembly of 2003
9 Section 8

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

12 **Article – Health Occupations**

13 1–306.

14 (A) A health care practitioner who fails to comply with the provisions of this
15 subtitle shall be subject to disciplinary action by the appropriate regulatory board.

16 (B) THE APPROPRIATE REGULATORY BOARD MAY INVESTIGATE A
17 CLAIM UNDER THIS SUBTITLE IN ACCORDANCE WITH THE INVESTIGATIVE
18 AUTHORITY GRANTED UNDER THIS ARTICLE.

19 14–101.

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

21 (b) “Board” means the State Board of 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.

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

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

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

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

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

14 (k) "Physician Rehabilitation [Committee] **PROGRAM**" means the
15 [committee] **PROGRAM** of the **BOARD OR THE NONPROFIT** entity ~~or entities with~~
16 ~~whom~~ **WITH WHICH** the Board contracts under [§ 14-401(e)] § ~~14-401(G)~~ of this title
17 that evaluates and provides assistance to impaired physicians **AND OTHER HEALTH**
18 **PROFESSIONALS REGULATED BY THE BOARD** ~~in need of~~ **WHO ARE DIRECTED BY**
19 **THE BOARD TO RECEIVE** treatment and rehabilitation for alcoholism, chemical
20 dependency, or other physical, emotional, or mental conditions.

21 (l) (1) "Practice medicine" means to engage, with or without
22 compensation, in medical:

23 (i) Diagnosis;

24 (ii) Healing;

25 (iii) Treatment; or

26 (iv) Surgery.

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

1 (i) Diagnosing, healing, treating, preventing, prescribing for, or
2 removing any physical, mental, or emotional ailment or supposed ailment of an
3 individual:

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

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

7 (ii) Ending of a human pregnancy; and

8 (iii) Performing acupuncture **AS PROVIDED UNDER § 14-504**
9 **OF THIS TITLE.**

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

11 (i) Selling any nonprescription drug or medicine;

12 (ii) Practicing as an optician; or

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

15 (m) "Related institution" has the meaning stated in § 19-301 of the Health –
16 General Article.

17 14-203.

18 (a) From among its members, the Board shall elect a [chairman,
19 secretary-treasurer,] **CHAIR** and any other officers that it considers necessary.

20 14-206.

21 (d) (1) If the entry is necessary to carry out a duty under this title, the
22 Board's executive director or other duly authorized agent or investigator of the Board
23 may enter at any reasonable hour:

24 (I) [a] **A** place of business of a licensed physician;

25 (II) **PRIVATE PREMISES WHERE THE BOARD SUSPECTS**
26 **THAT A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING,**

1 **ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE, BASED ON A**
 2 **FORMAL COMPLAINT; or**

3 (III) [public] **PUBLIC** premises.

4 14–207.

5 (a) There is a Board of Physicians Fund.

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

8 (2) The fees charged shall be set so as to approximate the cost of
 9 maintaining the Board.

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

12 (c) (1) [Except for fees assessed in accordance with the provisions of
 13 § 14–402(e) of this title, the] **THE** Board shall pay all fees collected under the
 14 provisions of this title to the Comptroller of the State.

15 (2) (i) If the Governor does not include in the State budget at least
 16 \$750,000 for the operation of the Health [Manpower] **PERSONNEL** Shortage Incentive
 17 **GRANT** Program under § 18–803 of the Education Article and the ***JANET L.***
 18 ***HOFFMAN*** Loan Assistance Repayment Program for primary care services under §
 19 18–1502(c) of the Education Article, as administered by the Maryland Higher
 20 Education Commission, the Comptroller shall distribute:

21 1. ~~14~~ ***EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)***
 22 ***OF THIS PARAGRAPH, 10 12*** percent of the fees received from the Board to the Office
 23 of Student Financial Assistance to be used as follows:

24 A. One-half to make grants under the Health
 25 [Manpower] **PERSONNEL** Shortage Incentive Grant Program under § 18–803 of the
 26 Education Article; and

27 B. One-half to make grants under the Janet L. Hoffman
 28 Loan Assistance Repayment Program under § 18–1502(c) of the Education Article to
 29 physicians engaged in primary care or to medical residents specializing in primary
 30 care who agree to practice for at least 2 years as primary care physicians in a

1 geographic area of the State that has been designated by the Secretary of Health and
2 Mental Hygiene as being medically underserved; and

3 2. The balance of the fees to the Board of Physicians
4 Fund.

5 **(II) ~~1.~~ FOR FISCAL 2008, IF THE GOVERNOR DOES NOT**
6 **INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER SUBPARAGRAPH**
7 **(I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 14 PERCENT**
8 **OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT**
9 **FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I)**
10 **OF THIS PARAGRAPH.**

11 ~~**2. FOR FISCAL 2009, IF THE GOVERNOR DOES NOT**~~
12 ~~**INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER SUBPARAGRAPH**~~
13 ~~**(I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 12 PERCENT**~~
14 ~~**OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT**~~
15 ~~**FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I)**~~
16 ~~**OF THIS PARAGRAPH.**~~

17 ~~**(ii)**~~ **(III)** If the Governor includes in the State budget at least
18 \$750,000 for the operation of the Health [Manpower] **PERSONNEL** Shortage Incentive
19 **GRANT** Program under § 18-803 of the Education Article and the **JANET L.**
20 **HOFFMAN** Loan Assistance Repayment Program for primary care services under §
21 18-1502(c) of the Education Article, as administered by the Maryland Higher
22 Education Commission, the Comptroller shall distribute the fees to the Board of
23 Physicians Fund.

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

27 (2) (i) The Fund is a continuing, nonlapsing fund, not subject to §
28 7-302 of the State Finance and Procurement Article.

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

32 (3) Interest or other income earned on the investment of moneys in the
33 Fund shall be paid into the Fund.

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

2 (e) (1) In addition to the requirements of subsection (d) of this section, the
3 Board shall fund the budget of the Physician Rehabilitation [Committee] **PROGRAM**
4 with fees set, collected, and distributed to the Fund under this title.

5 (2) After review and approval by the Board of a budget submitted by
6 the Physician Rehabilitation [Committee] **PROGRAM**, the Board may allocate moneys
7 from the Fund to the Physician Rehabilitation [Committee] **PROGRAM**.

8 (f) (1) The [chairman] **CHAIR** of the Board or the designee of the
9 [chairman] **CHAIR** shall administer the Fund.

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

12 (g) The Legislative Auditor shall audit the accounts and transactions of the
13 Fund as provided in § 2-1220 of the State Government Article.

14 ~~14-307.~~

15 ~~(a) To qualify for a license, an applicant shall be an individual who SUBMITS~~
16 ~~TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 14-307.1 OF~~
17 ~~THIS SUBTITLE AND meets the requirements of this section.~~

18 ~~(f) (1) The applicant shall meet any other qualifications that the Board~~
19 ~~establishes in its regulations for license applicants.~~

20 ~~(2) AN APPLICANT WHO HAS AN ACTIVE DISCIPLINARY ORDER ON~~
21 ~~A LICENSE IN ANOTHER STATE THAT IS GROUNDS FOR DISCIPLINARY ACTION~~
22 ~~UNDER § 14-404 OF THIS TITLE MAY NOT QUALIFY FOR A LICENSE.~~

23 ~~14-307.1.~~

24 ~~(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL~~
25 ~~JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT~~
26 ~~OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

1 ~~(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A~~
2 ~~STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT~~
3 ~~SHALL SUBMIT TO THE CENTRAL REPOSITORY;~~

4 ~~(1) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS OF THE~~
5 ~~APPLICANT TAKEN IN A FORMAT APPROVED BY THE DIRECTOR OF THE~~
6 ~~CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF~~
7 ~~INVESTIGATION;~~

8 ~~(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE~~
9 ~~CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY~~
10 ~~RECORDS; AND~~

11 ~~(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU~~
12 ~~OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.~~

13 ~~(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE~~
14 ~~CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD~~
15 ~~TO THE BOARD AND TO THE APPLICANT THE CRIMINAL HISTORY RECORD~~
16 ~~INFORMATION OF THE APPLICANT.~~

17 ~~(D) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER~~
18 ~~THIS SECTION SHALL BE:~~

19 ~~(1) CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND~~

20 ~~(2) USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY~~
21 ~~THIS TITLE.~~

22 ~~(E) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER~~
23 ~~THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT~~
24 ~~ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE~~
25 ~~CRIMINAL PROCEDURE ARTICLE.~~

26 ~~14-309.~~

27 ~~(a) To apply for a license, an applicant shall:~~

28 ~~(1) (i) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN~~
29 ~~ACCORDANCE WITH § 14-307.1 OF THIS SUBTITLE; OR~~

1 ~~(H) HAVE COMPLETED A CRIMINAL HISTORY RECORDS~~
 2 ~~CHECK IN ACCORDANCE WITH § 14-307.1 OF THIS SUBTITLE THROUGH~~
 3 ~~ANOTHER STATE MEDICAL BOARD WITHIN THE 5 YEARS PRECEDING THE DATE~~
 4 ~~OF APPLICATION;~~

5 ~~(2) Submit an application to the Board on the form that the Board~~
 6 ~~requires; [and]~~

7 ~~(3) SUBMIT WRITTEN, VERIFIED EVIDENCE THAT THE~~
 8 ~~REQUIREMENT OF ITEM (1) OF THIS SUBSECTION IS BEING MET OR HAS BEEN~~
 9 ~~MET; AND~~

10 ~~[(2)] (4) Pay to the Board the application fee set by the Board.~~

11 ~~14-313.~~

12 ~~(A) [The] SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE Board~~
 13 ~~shall issue a license to any applicant who meets the requirements of this title.~~

14 ~~(B) THE BOARD MAY NOT ISSUE A LICENSE IF THE CRIMINAL HISTORY~~
 15 ~~RECORD INFORMATION REQUIRED UNDER § 14-307.1 OF THIS SUBTITLE HAS~~
 16 ~~NOT BEEN RECEIVED.~~

17 14-316.

18 (d) (1) In addition to any other qualifications and requirements
 19 established by the Board, the Board may establish continuing education requirements
 20 as a condition to the renewal of licenses under this section.

21 (2) In establishing these requirements, the Board shall evaluate
 22 existing methods, devices, and programs in use among the various medical specialties
 23 and other recognized medical groups.

24 (3) The Board may not establish or enforce these requirements if they
 25 would so reduce the number of physicians in a community as to jeopardize the
 26 availability of adequate medical care in that community.

27 (4) **THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$100**
 28 **PER CONTINUING MEDICAL EDUCATION CREDIT IN LIEU OF A SANCTION UNDER**
 29 **§ 14-404 OF THIS TITLE, FOR A FIRST OFFENSE, FOR THE FAILURE OF A**

1 LICENSEE TO OBTAIN THE CONTINUING MEDICAL EDUCATION CREDITS
2 REQUIRED BY THE BOARD.

3 (e) The Board shall renew the license of each licensee who meets the
4 requirements of this section.

5 ~~14-322.~~

6 ~~(A) THE BOARD SHALL DEVELOP A PILOT PROGRAM FOR CONTINUING
7 COMPETENCY FOR LICENSED PHYSICIANS THAT ADDRESSES:~~

8 ~~(1) AN ASSESSMENT OF A LICENSED PHYSICIAN'S ABILITY TO
9 PRACTICE MEDICINE;~~

10 ~~(2) THE DEVELOPMENT, EXECUTION, AND DOCUMENTATION OF A
11 LEARNING PLAN BASED ON THE ASSESSMENT IN ITEM (1) OF THIS SUBSECTION;
12 AND~~

13 ~~(3) PERIODIC DEMONSTRATIONS OF CONTINUING COMPETENCE
14 THROUGH EVIDENCE-BASED METHODS.~~

15 ~~(B) THE PILOT PROGRAM MAY BE IMPLEMENTED IN A STATE-BASED
16 TEACHING HOSPITAL SYSTEM THAT:~~

17 ~~(1) ELECTS TO IMPLEMENT THE PILOT PROGRAM;~~

18 ~~(2) DEMONSTRATES THE CAPACITY TO IMPLEMENT THE PILOT
19 PROGRAM; AND~~

20 ~~(3) AGREES TO COLLECT OUTCOME MEASURES TO COMPARE THE
21 COMPETENCY OF INDIVIDUALS ON ENTRY INTO THE PROGRAM AND ON
22 COMPLETION OF THE PROGRAM.~~

23 ~~(C) THE BOARD MAY PROVIDE TECHNICAL ASSISTANCE AND FINANCIAL
24 SUPPORT TO A STATE-BASED TEACHING HOSPITAL SYSTEM THAT IMPLEMENTS
25 A PILOT PROGRAM UNDER THIS SUBSECTION.~~

26 ~~(D) THE BOARD SHALL ISSUE A REPORT ON THE STATUS OF, AND THE
27 BENEFITS ACCRUED FROM, THE PILOT PROGRAM, TO THE GOVERNOR AND, IN
28 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE~~

~~1 GENERAL ASSEMBLY WITHIN 2 YEARS AFTER THE DATE THE PILOT PROGRAM IS
2 IMPLEMENTED UNDER THIS SECTION.~~

3 14-401.

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

7 (b) If an allegation of grounds for disciplinary or other action is made by a
8 patient or a family member of a patient based on § 14-404(a)(22) of this subtitle and a
9 full investigation results from that allegation, the full investigation shall include an
10 offer of an interview with the patient or a family member of the patient who was
11 present on or about the time that the incident that gave rise to the allegation occurred.

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

15 (i) Refer the allegation for further investigation to the entity
16 that has contracted with the Board under subsection (e) of this section;

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

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

20 (2) After performing any necessary preliminary investigation of an
21 allegation of grounds for disciplinary or other action, the Board shall refer any
22 allegation based on § 14-404(a)(22) of this subtitle to the entity or entities that have
23 contracted with the Board under subsection (e) of this section for further investigation
24 and physician peer review within the involved medical specialty or specialties.

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

29 (4) (i) Except as provided in subparagraph (ii) of this paragraph, if
30 an allegation is based on § 14-404(a)(40) of this subtitle, the Board:

1 ~~(2) The [nonprofit] entity or entities shall employ reviewers that:~~

2 **(2) A PEER REVIEWER SHALL:**

3 (i) ~~Are~~ **BE** Board certified;

4 (ii) Have special qualifications to judge the matter at hand;

5 (iii) Have received a specified amount of medical experience and
6 training;

7 (iv) Have no formal actions against ~~their own licenses~~ **THE PEER**
8 **REVIEWER'S OWN LICENSE;**

9 (v) Receive training in peer review; ~~and~~

10 (vi) Have a standard format for peer review reports; **AND**

11 **(VII) TO THE EXTENT PRACTICABLE, BE LICENSED AND**
12 **ENGAGED IN THE PRACTICE OF MEDICINE WITHIN THE PAST YEAR IN THE**
13 **STATE.**

14 ~~(3) The [nonprofit] entity or entities shall make a reasonable effort to~~
15 ~~employ physicians that are licensed in the State~~ **THE BOARD MAY CONSULT WITH**
16 **THE APPROPRIATE SPECIALTY HEALTH CARE PROVIDER SOCIETIES IN THE**
17 **STATE TO OBTAIN A LIST OF PHYSICIANS QUALIFIED TO PROVIDE PEER REVIEW**
18 **SERVICES.**

19 **(4) FOR PURPOSES OF PEER REVIEW, THE BOARD MAY USE SOLE**
20 **SOURCE PROCUREMENT UNDER § 13-107 OF THE STATE FINANCE AND**
21 **PROCUREMENT ARTICLE.**

22 **(5) THE HEARING OF CHARGES MAY NOT BE STAYED OR**
23 **CHALLENGED BECAUSE OF THE SELECTION OF PEER REVIEWERS UNDER THIS**
24 **SUBSECTION BEFORE THE FILING OF CHARGES.**

25 (f) (1) [(i)] The [nonprofit] entity or ~~entities~~ **INDIVIDUAL PEER**
26 **REVIEWER** with which the Board contracts under subsection (e) of this section shall
27 have 90 days for completion of peer review.

1 [(ii)] **(2)** The [nonprofit] entity or ~~entities~~ **INDIVIDUAL PEER**
 2 **REVIEWER** may apply to the Board for an extension of up to 30 days to the time limit
 3 imposed under [subparagraph (i) of this paragraph] **PARAGRAPH (1) OF THIS**
 4 **SUBSECTION.**

5 [(iii)] **(3)** If an extension is not granted, and 90 days have
 6 elapsed, the Board may contract with any other entity **OR INDIVIDUAL WHO MEETS**
 7 **THE REQUIREMENTS OF SUBSECTION (E)(2) OF THIS SECTION** for the services of
 8 peer review.

9 [(iv)] **(4)** If an extension has been granted, and 120 days have
 10 elapsed, the Board may contract with any other entity **OR INDIVIDUAL WHO MEETS**
 11 **THE REQUIREMENTS OF SUBSECTION (E)(2) OF THIS SECTION** for the services of
 12 peer review.

13 [(2) If a physician has been noncompliant with a Physician
 14 Rehabilitation Committee for 60 days, the Physician Rehabilitation Committee shall
 15 report this noncompliance to the Board.]

16 ~~**(G) THE BOARD SHALL:**~~

17 ~~**(1) PROVIDE SERVICES FOR PHYSICIAN REHABILITATION; OR**~~

18 ~~**(2) ENTER INTO A WRITTEN CONTRACT WITH AN ENTITY OR**~~
 19 ~~**ENTITIES FOR PHYSICIAN REHABILITATION.**~~

20 **(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 21 **SUBSECTION, ON OR BEFORE JANUARY 1, 2008, THE BOARD SHALL ISSUE A**
 22 **REQUEST FOR PROPOSALS AND ENTER INTO A WRITTEN CONTRACT WITH A**
 23 **NONPROFIT ENTITY TO PROVIDE REHABILITATION SERVICES FOR PHYSICIANS**
 24 **OR OTHER ALLIED HEALTH PROFESSIONALS DIRECTED BY THE BOARD TO**
 25 **RECEIVE REHABILITATION SERVICES.**

26 **(2) IF THE BOARD DOES NOT RECEIVE A RESPONSIVE PROPOSAL**
 27 **UNDER PARAGRAPH (1) OF THIS SUBSECTION OR IS NOT ABLE TO CONTRACT**
 28 **WITH A NONPROFIT ENTITY, THE BOARD SHALL PROVIDE DIRECTLY**
 29 **REHABILITATION SERVICES FOR PHYSICIANS.**

30 [(g)] **(H)** (1) To facilitate the investigation and prosecution of disciplinary
 31 matters and the mediation of fee disputes coming before it, the Board may[:

1 (i) Contract] **CONTRACT** with [the Faculty, its committees, and
2 the component medical societies] **AN ENTITY OR ENTITIES** for the purchase of
3 investigatory, mediation, and related services[; and

4 (ii) Contract with others for the purchase of investigatory,
5 mediation, and related services and make these services available to the Faculty, its
6 committees, and the component medical societies].

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

9 (i) Investigators;

10 (ii) Attorneys;

11 (iii) Accountants;

12 (iv) Expert witnesses;

13 (v) Consultants; and

14 (vi) Mediators.

15 [(h)] **(I)** The Board may issue subpoenas and administer oaths in
16 connection with any investigation under this section and any hearing or proceeding
17 before it.

18 [(i)] **(J)** Those individuals not licensed under this title but covered under §
19 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of § 14-405
20 of this subtitle.

21 [(j)] **(K)** (1) It is the intent of this section that the disposition of every
22 complaint against a licensee that sets forth allegations of grounds for disciplinary
23 action filed with the Board shall be completed as expeditiously as possible and, in any
24 event, within 18 months after the complaint was received by the Board.

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

28 14-402.

1 (a) In reviewing an application for licensure, certification, or registration or
2 in investigating an allegation brought against a licensed physician or any allied health
3 professional regulated by the Board under this title, the Physician Rehabilitation
4 [Committee] **PROGRAM** may request the Board to direct, or the Board on its own
5 initiative may direct, the licensed physician or any allied health professional regulated
6 by the Board under this title to submit to an appropriate examination.

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

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

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

14 (c) The unreasonable failure or refusal of the licensed, certified, or registered
15 individual to submit to an examination is prima facie evidence of the licensed,
16 certified, or registered individual's inability to practice medicine or the respective
17 discipline competently, unless the Board finds that the failure or refusal was beyond
18 the control of the licensed, certified, or registered individual.

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

21 [(e) (1) The Board shall assess each applicant for a license to practice
22 medicine or for renewal of a license to practice medicine a fee of not more than \$50 to
23 be set after the submission of a budget for the physician rehabilitation program and
24 peer review activities.

25 (2) The fee is to be used to fund the physician rehabilitation program
26 and peer review activities.

27 (3) The Board shall set a fee under this subsection in accordance with
28 the budget submitted by the entity or entities with which the Board contracts.]

29 [(f)] **(E)** (1) The **BOARD OR THE** entity or entities with which the Board
30 contracts shall appoint the members of the Physician Rehabilitation [Committee]
31 **PROGRAM**.

1 (2) The [chairman] **CHAIR** of the Board shall appoint one member of
2 the Board to serve as a liaison to the Physician Rehabilitation [Committee]
3 **PROGRAM.**

4 [(g)] **(F)** The Legislative Auditor shall every 2 years audit the accounts and
5 transactions of the Physician Rehabilitation [Committee] **PROGRAM** as provided in §
6 2-1220 of the State Government Article.

7 14-404.

8 (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board,
9 on the affirmative vote of a majority of the quorum, may reprimand any licensee, place
10 any licensee on probation, or suspend or revoke a license if the licensee:

11 (3) Is guilty of:

12 (I) [immoral or unprofessional] IMMORAL conduct in the
13 practice of medicine; OR

14 (II) UNPROFESSIONAL CONDUCT IN THE PRACTICE OF
15 MEDICINE;

16 ~~14-405.~~

17 ~~(a) Except as otherwise provided in the Administrative Procedure Act, before~~
18 ~~the Board takes any action under § 14-404(a) of this subtitle or § 14-5A-17(a),~~
19 ~~§ 14-5B-14(A), OR § 14-5C-17(A) of this title, it shall give the individual against~~
20 ~~whom the action is contemplated an opportunity for a hearing before a hearing officer.~~

21 ~~(b) (1) The hearing officer shall give notice and hold the hearing in~~
22 ~~accordance with the Administrative Procedure Act.~~

23 ~~(2) Factual findings shall be supported by a preponderance of the~~
24 ~~evidence.~~

25 ~~(c) The individual may be represented at the hearing by counsel.~~

26 ~~(d) If after due notice the individual against whom the action is~~
27 ~~contemplated fails or refuses to appear, nevertheless the hearing officer may hear and~~
28 ~~refer the matter to the Board for disposition.~~

1 ~~(e) After performing any necessary hearing under this section, the hearing~~
 2 ~~officer shall refer proposed factual findings to the Board for the Board's disposition.~~

3 ~~(f) The Board may adopt regulations to govern the taking of depositions and~~
 4 ~~discovery in the hearing of charges.~~

5 ~~(g) The hearing of charges may not be stayed or challenged by any~~
 6 ~~procedural defects alleged to have occurred prior to the filing of charges.~~

7 14-411.

8 (a) In this section, "record" means the proceedings, records, or files of the
 9 Board.

10 (b) Except as otherwise expressly provided in this section and ~~§ 14-411.1~~
 11 ~~§§ 14-411.1 AND 14-411.2~~ of this subtitle, the Board or any of its investigatory
 12 bodies may not disclose any information contained in a record.

13 (c) Nothing in this section shall be construed to prevent or limit the
 14 disclosure of:

15 (1) General licensure, certification, or registration information
 16 maintained by the Board, if the request for release complies with the criteria of §
 17 10-617(h) of the State Government Article; [or]

18 (2) Profile information collected and disseminated under § 14-411.1 of
 19 this subtitle; **OR**

20 ~~(3) DISCIPLINARY INFORMATION DISCLOSED UNDER § 14-411.2~~
 21 ~~OF THIS SUBTITLE; OR~~

22 ~~(4) (3) PERSONAL AND OTHER IDENTIFYING INFORMATION OF~~
 23 ~~A LICENSEE, AS REQUIRED BY THE NATIONAL PRACTITIONER DATA BANK FOR~~
 24 ~~PARTICIPATION IN THE PROACTIVE DISCLOSURE SERVICE.~~

25 14-411.1.

26 (b) The Board shall create and maintain a public individual profile on each
 27 licensee that includes the following information:

1 (1) A description of any disciplinary action taken by the Board against
2 the licensee within the most recent 10-year period that includes a copy of the public
3 order;

4 (2) A description in summary form of any final disciplinary action
5 taken by a licensing board in any other state or jurisdiction against the licensee within
6 the most recent 10-year period;

7 (3) The number of medical malpractice final court judgments and
8 arbitration awards against the licensee within the most recent 10-year period for
9 which all appeals have been exhausted as reported to the Board;

10 ~~(4) The number of medical malpractice settlements involving the~~
11 ~~licensee if there are three or more [with a settlement amount of \$150,000 or greater]~~
12 ~~within the most recent [5-year] 10-YEAR period as reported to the Board;~~

13 [(5)] (4) A description of a conviction or entry of a plea of guilty or
14 nolo contendere by the licensee for a crime involving moral turpitude reported to the
15 Board under § 14-413(b) of this subtitle; and

16 [(6)] (5) Medical education and practice information about the
17 licensee including:

18 (i) The name of any medical school that the licensee attended
19 and the date on which the licensee graduated from the school;

20 (ii) A description of any internship and residency training;

21 (iii) A description of any specialty board certification by a
22 recognized board of the American Board of Medical Specialties or the American
23 Osteopathic Association;

24 (iv) The name of any hospital where the licensee has medical
25 privileges as reported to the Board under § 14-413 of this subtitle;

26 (v) The location of the licensee's primary practice setting; and

27 (vi) Whether the licensee participates in the Maryland Medical
28 Assistance Program.

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

1 (1) Provide appropriate and accessible Internet links from the Board's
2 Internet site:

3 (i) To the extent available, to the appropriate portion of the
4 Internet site of each health maintenance organization licensed in this State which will
5 allow the public to ascertain the names of the physicians affiliated with the health
6 maintenance organization; and

7 (ii) To the appropriate portion of the Internet site of the
8 American Medical Association; [and]

9 (2) Include a statement on each licensee's profile of information to be
10 taken into consideration by a consumer when viewing a licensee's profile, including
11 factors to consider when evaluating a licensee's malpractice data; AND

12 **(3) PROVIDE ON THE BOARD'S INTERNET SITE:**

13 **(I) NOTIFICATION THAT A PERSON MAY CONTACT THE**
14 **BOARD BY TELEPHONE, ELECTRONIC MAIL, OR WRITTEN REQUEST TO FIND OUT**
15 **WHETHER THE NUMBER OF MEDICAL MALPRACTICE SETTLEMENTS INVOLVING A**
16 **PARTICULAR LICENSEE TOTALS THREE OR MORE WITH A SETTLEMENT AMOUNT**
17 **OF \$150,000 OR GREATER WITHIN THE MOST RECENT ~~10-YEAR~~ 5-YEAR PERIOD**
18 **AS REPORTED TO THE BOARD; AND**

19 **(II) A TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS,**
20 **AND PHYSICAL ADDRESS THROUGH WHICH A PERSON MAY CONTACT THE BOARD**
21 **TO REQUEST THE INFORMATION REQUIRED TO BE PROVIDED UNDER ITEM (I) OF**
22 **THIS ITEM.**

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 maintain a website that serves as a single point of entry
27 where all physician profile information is available to the public on the Internet; AND

28 **(3) ON RECEIPT OF A VERBAL, ELECTRONIC, OR WRITTEN**
29 **REQUEST IN ACCORDANCE WITH SUBSECTION (C)(3) OF THIS SECTION, SHALL**
30 **PROVIDE THE INFORMATION WITHIN 2 BUSINESS DAYS OF THE REQUEST.**

1 ~~14-411.2.~~

2 ~~(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE~~
3 ~~PROCEEDINGS OF THE BOARD OR THE HEARING OFFICER FOLLOWING THE~~
4 ~~ISSUANCE OF FORMAL CHARGES BY THE BOARD SHALL BE OPEN TO THE~~
5 ~~PUBLIC.~~

6 ~~(B) THE BOARD OR A HEARING OFFICER MAY CONDUCT A PROCEEDING~~
7 ~~IN CLOSED SESSION ON REQUEST BY THE LICENSEE OR THE COMPLAINANT, FOR~~
8 ~~GOOD CAUSE SHOWN.~~

9 ~~(C) THE BOARD SHALL ADOPT REGULATIONS THAT SPECIFY WHEN A~~
10 ~~PROCEEDING MAY BE CLOSED FOR GOOD CAUSE.~~

11 ~~14-413.~~

12 ~~(b) (1) Each court shall report to the Board each conviction of or entry of a~~
13 ~~plea of guilty or nolo contendere by a physician for any crime involving moral~~
14 ~~turpitude.~~

15 ~~(2) The court shall submit the report within 10 days of the conviction~~
16 ~~or entry of the plea.~~

17 ~~(3) THE ADMINISTRATIVE OFFICE OF THE COURTS AND THE~~
18 ~~CHIEF JUDGE OF THE DISTRICT COURT, IN COLLABORATION WITH THE BOARD,~~
19 ~~SHALL DEVELOP A PROCEDURE FOR REPORTING AS REQUIRED IN PARAGRAPH~~
20 ~~(1) OF THIS SUBSECTION.~~

21 ~~14-414.~~

22 ~~(b) (1) Each court shall report to the Board each conviction of or entry of a~~
23 ~~plea of guilty or nolo contendere by a physician for any crime involving moral~~
24 ~~turpitude.~~

25 ~~(2) The court shall submit the report within 10 days of the conviction~~
26 ~~or entry of the plea.~~

27 ~~(3) THE ADMINISTRATIVE OFFICE OF THE COURTS AND THE~~
28 ~~CHIEF JUDGE OF THE DISTRICT COURT, IN COLLABORATION WITH THE BOARD,~~

1 ~~SHALL DEVELOP A PROCEDURE FOR REPORTING AS REQUIRED IN PARAGRAPH~~
2 ~~(1) OF THIS SUBSECTION.~~

3 14-506.

4 (a) In this section, “the Maryland Institute for Emergency Medical Services
5 Systems” means the State agency described in § 13-503 of the Education Article.

6 (b) The following records and other information are confidential records:

7 (1) Any record and other information obtained by the Faculty, a
8 component society of the Faculty, the Maryland Institute for Emergency Medical
9 Services Systems, a hospital staff committee, or a national medical society or group
10 organized for research, if that record or information identifies any person; and

11 (2) Any record of a proceeding or transaction before the [Faculty]
12 **ENTITY OR ENTITIES INDIVIDUAL THAT CONTRACT CONTRACTS WITH THE**
13 **BOARD** or one of its committees that relates to any investigation or report under
14 § 14-401 of this title as to an allegation of grounds for disciplinary or other action.

15 (c) Access to and use of any confidential record described in subsection (b) of
16 this section is regulated by §§ 5-601 and 10-205(b) of the Courts Article.

17 (d) This section does not restrict the publication of any statistics or other
18 information that does not disclose the identity of any person.

19 14-5A-18.

20 (a) Except as provided in subsections (b) and (d) of this section, hospitals,
21 related institutions, alternative health systems as defined in § 1-401 of this article,
22 and employers shall file with the Board a report that the hospital, related institution,
23 alternative health system, or employer limited, reduced, otherwise changed, or
24 terminated any licensed respiratory care practitioner for any reasons that might be
25 grounds for disciplinary action under § 14-5A-17 of this subtitle.

26 **(G) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000**
27 **FOR FAILURE TO REPORT UNDER THIS SECTION.**

28 **(2) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER**
29 **THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.**

30 14-5B-08.

1 (a) Except as otherwise provided in this subtitle, an individual shall be
2 certified by the Board before the individual may practice radiation oncology/therapy
3 technology, medical radiation technology, or nuclear medicine technology in this State.

4 (b) Except as otherwise provided in this subtitle, a licensed physician may
5 not employ or supervise an individual practicing radiation oncology/therapy
6 technology, medical radiation technology, or nuclear medicine technology without a
7 certificate.

8 **(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL,
9 RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER MAY
10 NOT EMPLOY AN INDIVIDUAL PRACTICING RADIATION ONCOLOGY/THERAPY
11 TECHNOLOGY, MEDICAL RADIATION TECHNOLOGY, OR NUCLEAR MEDICINE
12 TECHNOLOGY WITHOUT A CERTIFICATE.**

13 **(D) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000
14 FOR EMPLOYING AN UNCERTIFIED INDIVIDUAL UNDER THIS SECTION.**

15 **(2) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER
16 THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.**

17 14-5B-15.

18 (a) Except as provided in subsections (b) and (d) of this section, hospitals,
19 related institutions, alternative health systems as defined in § 1-401 of this article,
20 and employers shall file with the Board a report that the hospital, related institution,
21 alternative health system, or employer limited, reduced, otherwise changed, or
22 terminated any radiation oncology/therapy technologist, certified medical radiation
23 technologist, or certified nuclear medicine technologist for any reasons that might be
24 grounds for disciplinary action under § 14-5B-13 of this subtitle.

25 **(G) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000
26 FOR FAILURE TO REPORT UNDER THIS SECTION.**

27 **(2) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER
28 THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.**

29 14-5C-18.

30 (a) Except as provided in subsections (b) and (d) of this section, hospitals,
31 related institutions, alternative health systems as defined in § 1-401 of this article,

1 and employers shall file with the Board a report that the hospital, related institution,
2 alternative health system, or employer limited, reduced, otherwise changed, or
3 terminated any licensed polysomnographic technologist for any reason that might be
4 grounds for disciplinary action under § 14-5C-17 of this subtitle.

5 (G) (1) **THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000**
6 **FOR FAILURE TO REPORT UNDER THIS SECTION.**

7 (2) **THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER**
8 **THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.**

9 14-5C-25.

10 Subject to the evaluation and reestablishment provisions of the Maryland
11 Program Evaluation Act and subject to the termination of this title under § 14-702 of
12 this title, this subtitle and all regulations adopted under this subtitle shall terminate
13 and be of no effect after July 1, [2011] **2013**.

14 14-702.

15 Subject to the evaluation and reestablishment provisions of the Program
16 Evaluation Act, this title and all rules and regulations adopted under this title shall
17 terminate and be of no effect after July 1, [2007] **2013**.

18 15-206.

19 (a) The Board shall set reasonable fees for:

20 (1) The issuance and renewal of certificates; and

21 (2) The other services rendered by the Board in connection with
22 physician assistants.

23 (b) (1) The Board shall pay all [funds] **FEES** collected under this title to
24 the Comptroller of the State.

25 (2) (I) **IF THE GOVERNOR DOES NOT INCLUDE IN THE STATE**
26 **BUDGET AT LEAST \$750,000 FOR THE OPERATION OF THE HEALTH PERSONNEL**
27 **SHORTAGE INCENTIVE GRANT PROGRAM UNDER § 18-803 OF THE EDUCATION**
28 **ARTICLE AND THE JANET L. HOFFMAN LOAN ASSISTANCE REPAYMENT**
29 **PROGRAM FOR PRIMARY CARE SERVICES UNDER § 18-1502(C) OF THE**

1 EDUCATION ARTICLE, AS ADMINISTERED BY THE MARYLAND HIGHER
2 EDUCATION COMMISSION, THE COMPTROLLER SHALL DISTRIBUTE:

3 1. ~~14~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II)
4 OF THIS PARAGRAPH, 10 12 PERCENT OF THE FEES RECEIVED FROM THE
5 BOARD TO THE OFFICE OF STUDENT FINANCIAL ASSISTANCE TO BE USED AS
6 FOLLOWS:

7 A. ONE-HALF TO MAKE GRANTS UNDER THE
8 HEALTH PERSONNEL SHORTAGE INCENTIVE GRANT PROGRAM UNDER §
9 18-803 OF THE EDUCATION ARTICLE; AND

10 B. ONE-HALF TO MAKE GRANTS UNDER THE JANET
11 L. HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM UNDER § 18-1502(C)
12 OF THE EDUCATION ARTICLE TO PHYSICIANS ENGAGED IN PRIMARY CARE OR
13 TO MEDICAL RESIDENTS SPECIALIZING IN PRIMARY CARE WHO AGREE TO
14 PRACTICE FOR AT LEAST 2 YEARS AS PRIMARY CARE PHYSICIANS IN A
15 GEOGRAPHIC AREA OF THE STATE THAT HAS BEEN DESIGNATED BY THE
16 SECRETARY OF HEALTH AND MENTAL HYGIENE AS BEING MEDICALLY
17 UNDERSERVED; AND

18 2. THE BALANCE OF THE FEES TO THE BOARD OF
19 PHYSICIANS FUND.

20 (II) ~~1~~ FOR FISCAL 2008, IF THE GOVERNOR DOES NOT
21 INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER SUBPARAGRAPH
22 (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 14 PERCENT
23 OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT
24 FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I)
25 OF THIS PARAGRAPH.

26 ~~2. FOR FISCAL 2009, IF THE GOVERNOR DOES NOT~~
27 ~~INCLUDE IN THE STATE BUDGET THE FUNDS SPECIFIED UNDER SUBPARAGRAPH~~
28 ~~(I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DISTRIBUTE 12 PERCENT~~
29 ~~OF THE FEES RECEIVED FROM THE BOARD TO THE OFFICE OF STUDENT~~
30 ~~FINANCIAL ASSISTANCE TO BE USED AS PROVIDED UNDER SUBPARAGRAPH (I)~~
31 ~~OF THIS PARAGRAPH.~~

32 ~~(H)~~ (III) IF THE GOVERNOR INCLUDES IN THE STATE
33 BUDGET AT LEAST \$750,000 FOR THE OPERATION OF THE HEALTH PERSONNEL

1 **SHORTAGE INCENTIVE GRANT PROGRAM UNDER § 18-803 OF THE EDUCATION**
 2 **ARTICLE AND THE *JANET L. HOFFMAN* LOAN ASSISTANCE REPAYMENT**
 3 **PROGRAM FOR PRIMARY CARE SERVICES UNDER § 18-1502(C) OF THE**
 4 **EDUCATION ARTICLE, AS ADMINISTERED BY THE MARYLAND HIGHER**
 5 **EDUCATION COMMISSION, THE COMPTROLLER SHALL DISTRIBUTE THE FEES**
 6 **TO THE BOARD OF PHYSICIANS FUND.**

7 [(c) The Comptroller shall distribute:

8 (1) 20 percent of the fees received from the Board to the General Fund
 9 of the State; and

10 (2) The balance of the fees to the Board of Physicians Fund.]

11 **~~Article Insurance~~**

12 ~~15-110.~~

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

14 (2) ~~“Health care practitioner” has the meaning stated in § 1-301 of the~~
 15 ~~Health Occupations Article.~~

16 (3) ~~“Health care service” has the meaning stated in § 1-301 of the~~
 17 ~~Health Occupations Article.~~

18 (4) ~~“Prohibited referral” means a referral prohibited by § 1-302 of the~~
 19 ~~Health Occupations Article.~~

20 (b) ~~This section applies to insurers and nonprofit health service plans that~~
 21 ~~issue or deliver individual or group health insurance policies in the State.~~

22 (c) ~~An entity subject to this section may seek repayment from a health care~~
 23 ~~practitioner of any moneys paid for a claim, bill, or other demand or request for~~
 24 ~~payment for health care services that the [appropriate regulatory board]~~
 25 ~~COMMISSIONER determines were provided as a result of a prohibited referral.~~

26 (d) ~~Each individual and group health insurance policy that is issued for~~
 27 ~~delivery in the State by an entity subject to this section and that provides coverage for~~
 28 ~~health care services shall include a provision that excludes payment of any claim, bill,~~
 29 ~~or other demand or request for payment for health care services that the [appropriate~~

1 ~~regulatory board] COMMISSIONER determines were provided as a result of a~~
 2 ~~prohibited referral.~~

3 ~~(e) An entity subject to this section shall report to the Commissioner and the~~
 4 ~~appropriate regulatory board any pattern of claims, bills, or other demands or requests~~
 5 ~~for payment submitted for health care services provided as a result of a prohibited~~
 6 ~~referral within 30 days after the entity has knowledge of the pattern.~~

7 ~~(f) (1) Notwithstanding any other provision of this section, an entity~~
 8 ~~subject to this section that reimburses for health care services is not required to audit~~
 9 ~~or investigate a claim, bill, or other demand or request for payment for health care~~
 10 ~~services to determine whether those services were provided as a result of a prohibited~~
 11 ~~referral.~~

12 ~~(2) An audit or investigation of a claim, bill, or other demand or~~
 13 ~~request for payment for health care services to determine whether those services were~~
 14 ~~provided as a result of a prohibited referral is not grounds to delay payment or waive~~
 15 ~~the provisions of §§ 15-1004 and 15-1005 of this title.~~

16 ~~(g) In accordance with § 1-305 of the Health Occupations Article, an entity~~
 17 ~~subject to this section may seek a refund of a payment made for a claim, bill, or other~~
 18 ~~demand or request for payment that is subsequently determined to be for a health care~~
 19 ~~service provided as a result of a prohibited referral.~~

20 Article - State Government

21 8-403.

22 (b) Except as otherwise provided in subsection (a) of this section, on or before
 23 the evaluation date for the following governmental activities or units, an evaluation
 24 shall be made of the following governmental activities or units and the statutes and
 25 regulations that relate to the governmental activities or units:

26 (49) Physicians, State Board of (§ 14-201 of the Health Occupations
 27 Article: July 1, [2006] **2012**);

28 (53) Polysomnography Professional Standards Committee (§ 14-5C-05
 29 of the Health Occupations Article: July 1, [2010] **2012**);

30 **Chapter 220 of the Acts of 2003**

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That:

3 (a) [On or before November 1, 2003, the State Board of Physician Quality
4 Assurance shall establish or designate a program to train Maryland physicians who
5 wish to apply for a waiver from SAMHSA to practice office-based, medication-assisted
6 opioid addiction therapy.

7 (b) In establishing or designating a training program required under
8 subsection (a) of this section, the Board shall:

9 (1) consult the Model Policy Guidelines for Opioid Addiction
10 Treatment in the Medical Office adopted by the Federation of State Medical Boards of
11 the United States, Inc.; and

12 (2) adopt regulations regarding the specific experience or training
13 qualifications required to:

14 (i) demonstrate the ability of the physician to treat and manage
15 opiate-dependent patients in an office-based setting; and

16 (ii) qualify a physician for certification by the Board to apply for
17 a waiver from SAMHSA to practice office-based, medication-assisted opioid addiction
18 therapy.

19 (c) In addition to establishing or designating a program as required under
20 subsection (a) of this section, the] **THE** Board shall, through its website, newsletter,
21 and other correspondence with licensed physicians:

22 (1) educate licensed physicians about provisions of the federal Drug
23 Addiction Treatment Act of 2000 that authorize qualifying physicians to practice
24 office-based, medication-assisted opioid addiction therapy under a waiver from
25 SAMHSA; **AND**

26 (2) encourage family practitioners and primary care providers to
27 consider participating in office-based, medication-assisted opioid addiction therapy[;
28 and

29 (3) inform licensed physicians about the availability of training and
30 experience to qualify for a waiver to practice office-based, medication-assisted opioid
31 addiction therapy that:

1 (i) addresses the treatment and management of
2 opiate-dependent patients in an office-based setting; and

3 (ii) satisfies the training requirements that the Board
4 establishes in the regulations adopted under subsection (b)(2) of this section].

5 [(d)] (B) To the extent feasible, the Board shall, in cooperation with the
6 Alcohol and Drug Abuse Administration, develop an outreach strategy to educate
7 opioid addicts about the availability of office-based, medication-assisted opioid
8 addiction therapy.

9 (C) THE BOARD MAY ADOPT REGULATIONS REGARDING EXPERIENCE
10 OR TRAINING QUALIFICATIONS REQUIRED TO QUALIFY A PHYSICIAN TO
11 PRACTICE OFFICE-BASED, MEDICATION-ASSISTED OPIOID ADDICTION
12 THERAPY.

13 Chapter 252 of the Acts of 2003

14 [SECTION 8. AND BE IT FURTHER ENACTED, That the entity or entities
15 with which the State Board of Physicians contracts under § 14-401(e) of the Health
16 Occupations Article for further investigation and peer review of allegations based on §
17 14-404(a)(22) of the Health Occupations Article shall utilize two peer reviewers, and
18 in the event of a lack of agreement between the two reviewers, the Board shall utilize
19 a third reviewer to render a final peer review decision.]

20 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of
21 Physicians shall make regulatory changes necessary to reflect the procedures of the
22 Board, including exceptions from licensure, and to implement the recommendations
23 made in the “Report on the Maryland Board of Physicians’ Investigative Processes and
24 Optimal Caseloads” on or before September 1, 2007.

25 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 1,
26 2007, the Secretary of Health and Mental Hygiene shall standardize job classifications
27 for investigators at the State Board of Physicians by increasing the base salary grade
28 to a Grade 16.

29 SECTION 4. AND BE IT FURTHER ENACTED, That the Chief Administrative
30 Law Judge shall designate a pool of administrative law judges in the Office of
31 Administrative Hearings to hear cases referred to it by the State Board of Physicians.

32 SECTION 5. AND BE IT FURTHER ENACTED, That the State Board of
33 Physicians shall provide training at least annually to the personnel of the Office of

1 Administrative Hearings in order to improve the quality and efficiency of the hearings
 2 in physician discipline cases. The training shall include medical terminology, medical
 3 ethics, and, to the extent practicable, descriptions of basic medical and surgical
 4 procedures currently in use.

5 SECTION ~~4~~ 6. AND BE IT FURTHER ENACTED, That, on or before October
 6 1, 2007, the Department of Health and Mental Hygiene and the Office of the Attorney
 7 General shall:

8 (1) review the process for the investigation of self-referral cases by the
 9 health occupations boards;

10 (2) recommend a revised investigative process for self-referral cases
 11 that includes the determination of investigative resources for the health occupations
 12 boards in the investigation of self-referral cases; and

13 (3) report to the Governor and, in accordance with § 2-1246 of the
 14 State Government Article, to the Senate Education, Health, and Environmental
 15 Affairs Committee and the House Health and Government Operations Committee on
 16 their findings, recommendations, and any legislative or regulatory changes necessary
 17 to implement any recommended changes.

18 SECTION 7. AND BE IT FURTHER ENACTED, That the State Board of
 19 Physicians shall submit a report to the Governor and, in accordance with § 2-1246 of
 20 the State Government Article, to the General Assembly, on or before December 31, 2008,
 21 regarding:

22 (1) how many complaints reviewed by two peer reviewers resulted in
 23 disagreement between the peer reviewers; and

24 (2) of these complaints, how many resulted in charges being brought
 25 against a licensee.

26 ~~SECTION 8. AND BE IT FURTHER ENACTED, That for fiscal 2009, the~~
 27 ~~Governor shall include in the annual budget bill funding for an additional 7 new~~
 28 ~~regular positions as compliance analysts for the State Board of Physicians, to be fully~~
 29 ~~funded by the Board of Physicians Fund established under § 14-207 of the Health~~
 30 ~~Occupations Article, in order to efficiently investigate complaints and protect the~~
 31 ~~health, safety, and welfare of the public.~~

32 SECTION ~~4~~ ~~5~~ ~~9~~ 8. AND BE IT FURTHER ENACTED, That the provisions of
 33 § 8-404 of the State Government Article requiring a preliminary evaluation do not

1 apply to the State Board of Physicians prior to the evaluation required on or before
2 July 1, 2012.

3 SECTION ~~5~~ ~~6~~ ~~10~~ 9. AND BE IT FURTHER ENACTED, That this Act shall
4 take effect June 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.