

HOUSE BILL 988

J2

EMERGENCY BILL
ENROLLED BILL

(71r2124)

— *Health and Government Operations / Education, Health, and Environmental Affairs* —

Introduced by ~~Delegate Nathan Pulliam~~ Delegates Nathan Pulliam, Hammen, Benson, Costa, Donoghue, Elliott, Hubbard, Kach, Kipke, Kullen, McDonough, Mizeur, Montgomery, Morhaim, Oaks, Pena-Melnyk, Pendergrass, Riley, Tarrant, V. Turner, and Weldon

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 Dental Examiners – ~~Restructuring~~ Program Evaluation and**
3 **Licensee Protection**

4 FOR the purpose of prohibiting certain boards from taking or refusing to take certain
5 action as reprisal against certain licensees or certificate holders under certain
6 circumstances; establishing that certain protection only applies if a licensee or
7 certificate holder has a certain reasonable, good faith belief; authorizing certain
8 individuals to institute certain civil actions in certain counties within certain

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 periods of time; authorizing certain courts to provide certain relief under certain
 2 circumstances; providing for a certain defense; ~~requiring the Department of~~
 3 ~~Health and Mental Hygiene to submit a certain list of names of individuals for~~
 4 ~~nomination for membership on the State Board of Dental Examiners to the~~
 5 ~~Governor;~~ requiring that a certain list of names be compiled by the Department
 6 ~~in consultation with~~ certain academies, associations, organizations, or societies;
 7 requiring that individuals on a certain list reflect certain diversity of the State;
 8 requiring that certain members appointed to the Board reflect certain diversity
 9 of this State; requiring that the Maryland State Dental Association and the
 10 Maryland Dental Society invite certain representatives to a certain meeting;
 11 ~~requiring that certain terms of membership on the Board be staggered as~~
 12 ~~provided for on a certain date~~ increasing the number of weeks before a certain
 13 meeting that certain notice must be mailed; altering the number of years for
 14 certain terms; requiring the Governor to appoint a president of the Board from
 15 among certain Board members; ~~requiring the Secretary to appoint a certain~~
 16 ~~executive director of the Board~~ altering the number of times the board is
 17 required to meet; requiring the executive director to report to the Secretary;
 18 repealing provisions authorizing the Board to initiate or file certain complaints;
 19 establishing the terms of office of members of the Board appointed on a certain
 20 date; requiring a certain board to adopt certain regulations by a certain date;
 21 requiring the Office of the Attorney General to provide a rotation process for
 22 certain assistant attorney generals altering a certain termination date for
 23 provisions relating to the statutory and regulatory authority of the Board;
 24 altering a certain date for evaluation of certain Board activities; providing for
 25 the continued service of certain board members until certain appointments are
 26 made; requiring the Inspector General to conduct certain audits of certain
 27 complaint files; establishing that certain members are not eligible to serve
 28 another term; requiring the Board to submit a certain report exempting the
 29 Board from certain provisions of law requiring a certain preliminary evaluation;
 30 requiring that a certain evaluation conducted by the Department of Legislative
 31 Services incorporate a comprehensive review of certain complaints during a
 32 certain period of time and assess and identify, including the assessment and
 33 identification of certain patterns, and recommend certain tracking mechanisms
 34 for certain complaints; requiring the Department of Legislative Services to
 35 collaborate with the Inspector General in the Department of Health and Mental
 36 Hygiene in the review of certain complaint outcomes; defining certain terms;
 37 making this Act an emergency measure; and generally relating to the
 38 restructuring of the State Board of Dental Examiners.

39 BY repealing and reenacting, with amendments,

40 Article – Health Occupations

41 Section 1–501 through 1–506, 4–202 through 4–204, ~~and 4–316~~ 4–316, and

42 4–702

1 Annotated Code of Maryland
2 (2005 Replacement Volume and 2006 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – State Government
5 Section 8–403(b)(17)
6 Annotated Code of Maryland
7 (2004 Replacement Volume and 2006 Supplement)

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

10 **Article – Health Occupations**

11 1–501.

12 (a) In this subtitle the following words have the meanings indicated.

13 (b) “Board” means any board established under this article.

14 (c) (1) “Employee” means any individual licensed or certified by a board
15 under this article who performs services for and under the control and direction of an
16 employer for wages or other remuneration.

17 (2) “Employee” does not include a State employee.

18 **(D) “CERTIFICATE HOLDER” MEANS AN INDIVIDUAL ISSUED A**
19 **CERTIFICATE BY A BOARD UNDER THIS ARTICLE.**

20 **(E) “LICENSEE” MEANS AN INDIVIDUAL LICENSED BY A BOARD UNDER**
21 **THIS ARTICLE.**

22 [(d)] (F) “Supervisor” means any individual within an employer’s
23 organization who has the authority to direct and control the work performance of an
24 employee, or who has managerial authority to take corrective action regarding the
25 violation of a law, rule, or regulation of which the employee complains.

26 1–502.

27 **(A)** Subject to § 1–503 of this subtitle, an employer may not take or refuse to
28 take any personnel action as reprisal against an employee because the employee:

1 (1) Discloses or threatens to disclose to a supervisor or board an
2 activity, policy, or practice of the employer that is in violation of a law, rule, or
3 regulation;

4 (2) Provides information to or testifies before any public body
5 conducting an investigation, hearing, or inquiry into any violation of a law, rule, or
6 regulation by the employer; or

7 (3) Objects to or refuses to participate in any activity, policy, or
8 practice in violation of a law, rule, or regulation.

9 (B) **SUBJECT TO § 1-503 OF THIS SUBTITLE, A BOARD MAY NOT TAKE OR**
10 **REFUSE TO TAKE ANY ACTION UNDER THIS ARTICLE AS REPRISAL AGAINST A**
11 **LICENSEE OR CERTIFICATE HOLDER BECAUSE THE LICENSEE OR CERTIFICATE**
12 **HOLDER:**

13 (1) **DISCLOSES OR THREATENS TO DISCLOSE TO THE GOVERNOR**
14 **OR THE GENERAL ASSEMBLY AN ACTIVITY, POLICY, OR PRACTICE OF THE**
15 **BOARD THAT IS IN VIOLATION OF A LAW, RULE, OR REGULATION; OR**

16 (2) **PROVIDES INFORMATION TO OR TESTIFIES BEFORE ANY**
17 **PUBLIC BODY CONDUCTING AN INVESTIGATION, HEARING, OR INQUIRY INTO**
18 **ANY VIOLATION OF A LAW, RULE, OR REGULATION BY THE BOARD.**

19 1-503.

20 (A) The protection provided against a violation of [§ 1-502]§ 1-502(A) of this
21 subtitle shall only apply if:

22 (1) The employee has a reasonable, good faith belief that the employer
23 has, or still is, engaged in an activity, policy, or practice that is in violation of a law,
24 rule, or regulation;

25 (2) The employer's activity, policy, or practice that is the subject of the
26 employee's disclosure poses a substantial and specific danger to the public health or
27 safety; and

28 (3) Before reporting to the board:

29 (i) The employee has reported the activity, policy, or practice to
30 a supervisor or administrator of the employer in writing and afforded the employer a
31 reasonable opportunity to correct the activity, policy, or practice; or

1 (ii) If the employer has a corporate compliance plan specifying
2 who to notify of an alleged violation of a rule, law, or regulation, the employee has
3 followed the plan.

4 (B) THE PROTECTION PROVIDED AGAINST A VIOLATION OF §
5 1-502(B) OF THIS SUBTITLE SHALL ONLY APPLY IF THE LICENSEE OR
6 CERTIFICATE HOLDER HAS A REASONABLE, GOOD FAITH BELIEF THAT THE
7 BOARD HAS, OR STILL IS, ENGAGED IN AN ACTIVITY, POLICY, OR PRACTICE THAT
8 IS IN VIOLATION OF A LAW, RULE, OR REGULATION.

9 1-504.

10 (a) Any [employee] **INDIVIDUAL** who is subject to [a personnel] **AN** action in
11 violation of § 1-502 of this subtitle may institute a civil action in the county where:

12 (1) The alleged violation occurred;

13 (2) The [employee] **INDIVIDUAL** resides; or

14 (3) The employer **OR BOARD** maintains its principal offices in the
15 State.

16 (b) The action shall be brought within 1 year after the alleged violation of §
17 1-502 of this subtitle occurred, or within 1 year after the [employee] **INDIVIDUAL** first
18 became aware of the alleged violation of § 1-502 of this subtitle.

19 1-505.

20 In any action brought under this subtitle, a court may:

21 (1) Issue an injunction to restrain continued violation of this subtitle;

22 (2) Reinstate the [employee] **INDIVIDUAL** to the same, or an
23 equivalent position held before the violation of § 1-502 of this subtitle;

24 (3) Remove any adverse personnel **OR DISCIPLINARY** record entries
25 based on or related to the violation of § 1-502 of this subtitle;

26 (4) Reinstate full fringe benefits and seniority rights;

1 (5) Require compensation for lost wages, benefits, and other
2 remuneration; and

3 (6) Assess reasonable attorney's fees and other litigation expenses
4 against:

5 (i) The employer **OR BOARD**, if the employee, **LICENSEE, OR**
6 **CERTIFICATE HOLDER** prevails; or

7 (ii) The employee, **LICENSEE, OR CERTIFICATE HOLDER**, if
8 the court determines that the action was brought by the employee, **LICENSEE, OR**
9 **CERTIFICATE HOLDER** in bad faith and without basis in law or fact.

10 1-506.

11 In any action brought under this subtitle, it is a defense that the [personnel]
12 action was based on grounds other than the [employee's] **INDIVIDUAL'S** exercise of
13 any rights protected under this subtitle.

14 4-202.

15 (a) (1) The Board consists of 16 members.

16 (2) Of the 16 Board members:

17 (i) 9 shall be licensed dentists;

18 (ii) 4 shall be licensed dental hygienists; and

19 (iii) 3 shall be consumer members.

20 (3) **(I)** The Governor shall appoint the dentist Board members,
21 with the advice of the Secretary, from a list of names submitted to the Governor jointly
22 by the ~~the Maryland State Dental Association and the Maryland Dental Society~~
23 ~~DEPARTMENT~~.

24 ~~(H) THE LIST OF NAMES SHALL BE COMPILED BY THE~~
25 ~~DEPARTMENT~~ **IN CONSULTATION WITH EACH ESTABLISHED ACADEMY,**
26 **ASSOCIATION, ORGANIZATION, OR SOCIETY COMMITTED TO EXCELLENCE IN**
27 **DENTISTRY.**

1 ~~(III)~~ **(II)** The number of names on the list for one vacancy shall
2 be at least four names, for two vacancies at least three names for each vacancy, and
3 for three or more vacancies at least two names for each vacancy.

4 ~~(IV)~~ **(III)** **THE INDIVIDUALS ON THE LIST SHALL**
5 **REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND**
6 **GENDER DIVERSITY OF THE STATE.**

7 (4) The Governor shall appoint the dental hygienist Board members,
8 with the advice of the Secretary, from a list of names submitted to the Governor by the
9 Maryland Dental Hygienists' Association. The number of names on the list shall be
10 four times the number of vacancies.

11 (5) The Governor shall appoint the consumer members with the advice
12 of the Secretary and the advice and consent of the Senate.

13 **(6) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO**
14 **THE BOARD SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC,**
15 **CULTURAL, AND GENDER DIVERSITY OF THE STATE.**

16 (b) (1) **(I)** At a [joint] meeting held by the Maryland State Dental
17 Association and the Maryland Dental Society called to choose nominees for a dentist
18 vacancy on the Board, a majority of the dentists present at the meeting shall choose
19 the list of names of dentist nominees to the Board for submission to the ~~Governor~~
20 ~~DEPARTMENT~~.

21 **(II) THE MARYLAND STATE DENTAL ASSOCIATION AND THE**
22 **MARYLAND DENTAL SOCIETY SHALL INVITE REPRESENTATIVES FROM EACH**
23 **ESTABLISHED ACADEMY, ASSOCIATION, ORGANIZATION, OR SOCIETY**
24 **COMMITTED TO EXCELLENCE IN DENTISTRY TO A MEETING HELD IN**
25 **ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

26 (2) At a meeting held by the Maryland Dental Hygienists' Association
27 called to choose nominees for a dental hygienist vacancy on the Board, a majority of
28 the dental hygienists present at the meeting shall choose the list of names of dental
29 hygienist nominees to the Board for submission to the Governor.

30 (3) At least ~~2~~ **4** weeks before a meeting is held under paragraph (1) of
31 this subsection, the secretaries of the appropriate organizations shall mail to each
32 licensed practitioner actively practicing in Maryland, at the address appearing in their

1 records or the records of the Board, a notice that states the time, place, and purpose of
2 the meeting.

3 (4) At least ~~2~~ 4 weeks before a meeting is held under paragraph (2) of
4 this subsection, the secretary of the Maryland Dental Hygienists' Association shall
5 mail to each licensed dental hygienist, at the address appearing in their records or the
6 records of the Board, a notice that states the time, place, and purpose of the meeting.

7 (c) Each dentist Board member:

8 (1) Shall be an individual of recognized ability and honor;

9 (2) Shall be a practicing holder of a general license to practice
10 dentistry who has practiced dentistry actively in this State for at least 5 years
11 immediately before appointment;

12 (3) Shall be a resident of this State; and

13 (4) In the case of a Board member belonging to an association whose
14 members are regulated by the Board, may not be:

15 (i) An officer of the association;

16 (ii) A member of the association's governing board or committee;

17 (iii) A member of the association's house of delegates; or

18 (iv) A voting member of a committee of the association that
19 contributes to the establishment of governmental, regulatory, or legislative policy
20 objectives of the association.

21 (d) Each dental hygienist Board member:

22 (1) Shall be a practicing holder of a general license to practice dental
23 hygiene who has practiced dental hygiene actively in this State for at least 3 years
24 immediately before appointment;

25 (2) Shall be a resident of this State;

26 (3) In the case of a Board member belonging to an association whose
27 members are regulated by the Board, may not be:

28 (i) An officer of the association;

1 (ii) A member of the association's governing board or committee;

2 (iii) A member of the association's house of delegates; or

3 (iv) A voting member of a committee of the association that
4 contributes to the establishment of governmental, regulatory, or legislative policy
5 objectives of the association.

6 (e) Each consumer member of the Board:

7 (1) Shall be a member of the general public;

8 (2) May not be or ever have been a dentist or dental hygienist or in
9 training to become a dentist or dental hygienist;

10 (3) May not have a household member who is a dentist or dental
11 hygienist or in training to become a dentist or dental hygienist;

12 (4) May not participate or ever have participated in a commercial or
13 professional field related to dentistry;

14 (5) May not have a household member who participates in a
15 commercial or professional field related to dentistry; and

16 (6) May not have had within 2 years before appointment a substantial
17 financial interest in a person regulated by the Board.

18 (f) While a member of the Board, a consumer member may not have a
19 substantial financial interest in a person regulated by the Board.

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

22 (h) (1) The term of a member is ~~4~~ 2 years.

23 (2) The terms of the members are staggered as required by the terms
24 provided for members of the Board on ~~{October 1, 2006}~~ ~~JANUARY 1, 2008~~.

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

1 (4) A member who is appointed after a term has begun serves only for
2 the rest of the term and until a successor is appointed and qualifies.

3 (5) A member may not be appointed for more than 2 consecutive full
4 terms.

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

7 (i) (1) The Governor may remove a member for incompetence,
8 misconduct, continued neglect of duties imposed by this subtitle, unprofessional
9 conduct, or dishonorable conduct.

10 (2) The Governor shall remove a member whom the Governor finds to
11 have been absent from 2 successive Board meetings without adequate reason.

12 4-203.

13 (A) **FROM AMONG THE BOARD MEMBERS, THE GOVERNOR SHALL**
14 **APPOINT A PRESIDENT.**

15 [(a)] (B) From among its members, the Board shall elect [a president and] a
16 secretary.

17 [(b)] (C) The Board shall determine:

18 (1) The manner of election of [officers] **THE SECRETARY;**

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

20 (3) The duties of each officer.

21 4-204.

22 (a) (1) The Board shall meet at least ~~twice a year~~ **ONCE A MONTH**, at the
23 times and places that it determines.

24 (2) The Board shall hold special meetings, at the places it determines,
25 when:

26 (i) The Secretary requests a meeting; or

1 (ii) The Board considers a meeting necessary.

2 (3) After giving due notice, the president or Board secretary shall call
3 meetings. However, the Board may meet at any time and place without notice if each
4 member of the Board either consents in writing or attends the meeting.

5 (b) Each member of the Board is entitled to:

6 (1) Compensation in accordance with the budget of the Board; and

7 (2) Reimbursement for expenses at a rate determined by the Board.

8 (c) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
9 **SUBSECTION, THE** Board may employ a staff in accordance with the budget of the
10 Board.

11 (2) ~~THE SECRETARY SHALL APPOINT AN EXECUTIVE DIRECTOR~~
12 ~~FOR THE BOARD. THE EXECUTIVE DIRECTOR SHALL REPORT TO THE~~
13 ~~SECRETARY.~~

14 4-316.

15 (a) On [its own initiative or on] a written complaint filed with the Board by
16 any person, the Board may commence proceedings under § 4-315 of this subtitle.

17 (b) [If a person who is not a member of the Board files a complaint, the] **A**
18 complaint shall:

19 (1) Be in writing;

20 (2) Be verified by a person who is familiar with the alleged facts;

21 (3) Request Board action; and

22 (4) Be filed with the secretary of the Board.

23 (c) [(1)] The Board shall investigate each complaint filed with the Board if
24 the complaint:

25 [(i)] (1) Alleges facts that are grounds for action under §
26 4-315 of this subtitle; and

1 [(ii)] (2) Meets the requirements of this section.

2 [(2) If the Board begins action on its own initiative or if after
3 investigation it elects to substitute its own complaint for one filed by a person who is
4 not a member of the Board, the Board shall prepare a written complaint.]

5 (d) If, after performing any preliminary investigation, the Board determines
6 that an allegation involving fees for professional or ancillary services does not
7 constitute grounds for discipline or other action, the Board may refer the allegation
8 concerning a member of a professional society or association composed of providers of
9 dental care to a committee of the Society for Mediation.

10 4-702.

11 Subject to the evaluation and reestablishment provisions of the Program
12 Evaluation Act, this title and all rules and regulations adopted under this title shall
13 terminate and be of no effect after July 1, [2011] 2009.

14 **Article - State Government**

15 8-403.

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

20 (17) Dental Examiners, State Board of (§ 4-201 of the Health
21 Occupations Article: July 1, [2010] 2008);

22 SECTION 2. AND BE IT FURTHER ENACTED, That members of the Board
23 who have served for 4 or more years as of the effective date of this Act shall continue
24 to serve until a successor is appointed and qualifies. The Governor shall appoint
25 successors as soon as is practicable after the effective date of this Act. Members of the
26 Board who have not served 4 years as of the effective date of this Act may continue to
27 serve until they have completed their term. At the end of the term, the member is not
28 eligible to serve another term and shall continue to serve until a successor is appointed
29 and qualifies.‡

30 (a) ~~Notwithstanding any law, rules, or regulation, the term of office of each~~
31 ~~member of the State Board of Dental Examiners serving on the effective date of this~~
32 ~~Act shall terminate at the end of December 31, 2007.~~

1 (b) ~~The terms of office of each of the members of the Board appointed under~~
2 ~~Section 1 of this Act shall begin on January 1, 2008.~~

3 (e) (1) ~~If a member's term terminates between the effective date of this~~
4 ~~Act and December 31, 2007, the member shall continue to serve until a successor is~~
5 ~~appointed and qualifies.~~

6 (2) ~~A member who is appointed between the effective date of this Act~~
7 ~~and December 31, 2007, shall serve until December 31, 2007.~~

8 ~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

9 (a) ~~On or before December 31, 2008, the State Board of Dental Examiners~~
10 ~~appointed under Section 2 of this Act shall adopt new regulations for the rules of~~
11 ~~procedure for the disciplinary process.~~

12 (b) ~~The Board shall draft the new regulations in consultation with each~~
13 ~~established academy, association, organization, or society committed to excellence in~~
14 ~~dentistry.~~

15 (e) ~~The new regulations shall include:~~

16 (1) ~~guidelines for complaints;~~

17 (2) ~~guidelines for investigations such as when an investigation is~~
18 ~~warranted and the thoroughness and length of an investigation that is warranted~~
19 ~~under different circumstances;~~

20 (3) ~~guidelines for sanctions such as remedial education and~~
21 ~~corresponding degrees of sanctions with severity of violation;~~

22 (4) ~~guidelines for probationary periods such as length;~~

23 (5) ~~an appeals process;~~

24 (6) ~~guidelines for confidentiality.~~

25 ~~SECTION 4. AND BE IT FURTHER ENACTED, That the terms of the~~
26 ~~members of the State Board of Dental Examiners beginning on January 1, 2008, shall~~
27 ~~expire as follows:~~

1 (1) ~~in 2010, three dentist members, one dental hygienist member, and~~
2 ~~one consumer member; and~~

3 (2) ~~in 2011, three dentist members, two dental hygienist members,~~
4 ~~and one consumer member; and~~

5 (3) ~~in 2012, three dentist members, one dental hygienist member, and~~
6 ~~one consumer member.~~

7 ~~SECTION 5. 3. AND BE IT FURTHER ENACTED, That the Office of the~~
8 ~~Inspector General in the Department of Health and Mental Hygiene shall shall:~~

9 ~~(a) collaborate with the Department of Legislative Services under Section 4~~
10 ~~of this Act; and~~

11 ~~(b) (1) audit the State Board of Dental Examiners complaint files once on~~
12 ~~or before July 1 of each year between the effective date of this Act and December 31,~~
13 ~~2010 from July 1, 2008 to July 1, 2012, both inclusive, to ensure that during the~~
14 ~~previous year ending December 31 the Board has consistently applied sanctions~~
15 ~~against licensees and only sanctioned licensees within the bounds of its legislative and~~
16 ~~regulatory authority authority; and~~

17 ~~(2) report to the General Assembly in accordance with § 2-1246 of the~~
18 ~~State Government Article on the finding of the audits on or before July 1 of each year~~
19 ~~between July 1, 2008 and July 1, 2012, both inclusive.~~

20 ~~SECTION 6. AND BE IT FURTHER ENACTED, That the Office of the Attorney~~
21 ~~General shall provide a rotation process for assistant attorney generals working for~~
22 ~~the State Board of Dental Examiners.~~

23 ~~SECTION 7. 4. 3. AND BE IT FURTHER ENACTED, That, on or before~~
24 ~~December 31, 2008, the State Board of Dental Examiners shall report to the General~~
25 ~~Assembly, in accordance with § 2-1246 of the State Government Article, on the~~
26 ~~implementation of this Act. That:~~

27 ~~(a) The provisions of § 8-404 of the State Government Article requiring a~~
28 ~~preliminary evaluation do not apply to the State Board of Dental Examiners prior to~~
29 ~~the evaluation required on or before July 1, 2008.~~

30 ~~(b) The evaluation of the board conducted by the Department of Legislative~~
31 ~~Services shall shall:~~

1 (1) incorporate a comprehensive review of complaint outcomes
2 between January 1, 2002 and December 31, 2006, including assessing and identifying
3 patterns related to:

4 ~~(1)~~ (i) the source of each complaint;

5 ~~(2)~~ (ii) the length of time from receipt of a complaint to it being
6 dismissed or formal action being taken;

7 ~~(3)~~ (iii) the focus of any investigations conducted and the process for
8 closing out a case;

9 ~~(4)~~ (iv) the types of violations for which sanctions are imposed, the
10 range of sanctions imposed, and the consistency of their application;

11 ~~(5)~~ (v) the board's use of its authority to impose a fine instead of
12 suspending a license or in addition to suspending or revoking a license or
13 reprimanding a licensee;

14 ~~(6)~~ (vi) the reinstatement process associated with suspended or
15 revoked licenses;

16 ~~(7)~~ (vii) the use of consent decrees and how they are monitored;

17 ~~(8)~~ (viii) the use of committees by the board in the complaint and
18 disciplinary process and the extent to which the recommendations of the committees
19 are followed; and

20 ~~(9)~~ (ix) the board's use of probation and remedial measures,
21 including educational and advisory letters to enhance compliance rather than or in
22 addition to suspending or revoking a license or otherwise reprimanding a licensee
23 licensee; and

24 (2) recommend a mechanism for tracking future complaints in a
25 manner similar to the review outlined in item (1) of this subsection to ensure that
26 sanctions are consistently applied against licensees and that sanctions are within the
27 bounds of the Board's legislative and regulatory authority.

28 (c) The Department of Legislative Services shall collaborate with the Office
29 of the Inspector General in the Department of Health and Mental Hygiene in the
30 review of complaint outcomes, as appropriate.

1 SECTION ~~8. 5.~~ 4. AND BE IT FURTHER ENACTED, That this Act ~~shall take~~
2 ~~effect July 1, 2007~~ is an emergency measure, is necessary for the immediate
3 preservation of the public health or safety, has been passed by a yea and nay vote
4 supported by three-fifths of all the members elected to each of the two Houses of the
5 General Assembly, and shall take effect from the date it is enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.