

Chapter 401

(House Bill 1096)

AN ACT concerning

State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Physicians and certain allied health advisory committees in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board and the committees; requiring that an evaluation of the Board and the related allied health advisory committees and the statutes and regulations of the Board and the related allied health advisory committees be performed on or before a certain date; altering to a certain date the termination provision related to the Perfusion Advisory Committee; stating the policy of the State regarding the regulation and control of health occupations in the State; stating that the health occupation boards are created to function in a certain way with a certain intent; altering the membership of the Board; altering the powers and duties of the Board; repealing a certain provision of law regarding entry onto private premises for a certain purpose; authorizing the Board's executive director to apply for a certain search warrant under certain circumstances; requiring the application for the warrant to meet certain requirements; authorizing a judge who receives a certain search warrant application to issue a warrant under certain circumstances; requiring a certain search warrant to include certain information and be executed and returned to a certain individual within a certain period of time; clarifying that certain fees charged by the Board, which must be set so as to approximate the cost of maintaining the Board, include the cost of providing a certain rehabilitation program; requiring the Board to adopt certain regulations to allow a certain licensee to receive up to a certain number of credit hours for providing certain services; establishing certain disciplinary panels through which certain allegations must be resolved; requiring the chair of the Board to assign each member of the Board to one of the disciplinary panels; providing for the composition and chairs of the disciplinary panels; authorizing the chair of the Board to serve as an ex-officio member of a certain disciplinary panel; specifying the quorum of a disciplinary panel; authorizing a disciplinary panel to conduct a certain investigation; requiring a disciplinary panel to determine the final disposition of a complaint against a physician or an allied health professional, except under certain circumstances; providing that each disciplinary panel has the independent authority to make a final determination regarding a certain matter; prohibiting the Board from voting to approve or disapprove an action of a disciplinary panel; requiring a disciplinary panel to consult with the chair of a

certain allied health advisory committee, or the chair's designee, under certain circumstances; requiring a complaint to be assigned to a disciplinary panel after the completion of a certain investigation by the Board; authorizing a disciplinary panel to enter into a consent order with a physician or an allied health professional after conducting a certain meeting; requiring the chair of a certain disciplinary panel to refer a complaint to the other disciplinary panel under certain circumstances; prohibiting a certain disciplinary panel, or its members, from continuing to handle or participating in disciplinary proceedings regarding a complaint under certain circumstances; authorizing a disciplinary panel, instead of the Board, to take certain action regarding a complaint or come to a certain agreement with a licensee; requiring a disciplinary panel, instead of the Board, to refer certain allegations to a certain entity for peer review; requiring a disciplinary panel, instead of the Board, to obtain a certain number of peer review reports for certain allegations; repealing certain obsolete language regarding a certain request for proposals; repealing the requirement that the Board, under certain circumstances, provide direct rehabilitation services for physicians; requiring a disciplinary panel, instead of the Board, to offer certain complainants and licensees an opportunity to mediate certain disputes; authorizing a disciplinary panel, instead of the Board, to determine, for certain allegations, that an agreement for corrective action is warranted; requiring a disciplinary panel, instead of the Board, to notify certain licensees of identified deficiencies and enter into a certain corrective action; prohibiting a disciplinary panel, instead of the Board, from entering into an agreement for corrective action under certain circumstances; requiring a disciplinary panel, instead of the Board, to evaluate licensees with whom the disciplinary panel has entered into an agreement for corrective action and to take certain action under certain circumstances; requiring a disciplinary panel to provide certain individuals an opportunity to appear before the disciplinary panel under certain circumstances; authorizing a disciplinary panel, instead of the Board, to take certain disciplinary action against a physician or allied health professional under certain circumstances; clarifying that an affirmative vote of the majority of the quorum of the Board or of the quorum of a disciplinary panel is required before the Board or the disciplinary panel takes certain action; requiring a disciplinary panel, instead of the Board, to take certain disciplinary action against a certain physician or allied health professional under certain circumstances; prohibiting a disciplinary panel, instead of the Board, from taking disciplinary action against a certain physician under certain circumstances; requiring a disciplinary panel, instead of the Board, to give a certain individual an opportunity for a certain hearing; requiring a disciplinary panel, instead of the Board, to pass an order under certain circumstances; authorizing a disciplinary panel, instead of the Board, to reinstate certain licenses under certain circumstances; requiring a disciplinary panel to notify the Board of certain license reinstatements; providing that proceedings, records, and files of a disciplinary panel are not discoverable or admissible in certain actions except under certain circumstances; prohibiting a disciplinary panel from disclosing information in a record except under certain circumstances;

requiring the Board to disclose the filing of charges and initial denials of licensure on the Board's Web site; requiring a disciplinary panel to disclose certain information in a record under certain circumstances; requiring certain licensee profiles to include a summary of charges filed against the licensee, including a copy of the charging document, under certain circumstances; requiring that licensee profiles include a certain disclaimer; requiring the Board to include certain information on a licensee's profile within a certain time period; ~~requiring that a certain report that certain entities are required to file with the Board include a certain statement under certain circumstances;~~ requiring the Board, in consultation with certain interested parties, to adopt regulations to define certain circumstances under which certain reporting is required by hospitals, related institutions, and alternative health systems; authorizing the Board to impose a certain civil penalty on an alternative health system that fails to file a certain report; requiring the Board to remit a certain penalty to the General Fund of the State; repealing the requirement that a circuit court of the State impose a civil penalty on an alternative health system that fails to file a certain report; ~~requiring a certain court reporting requirement to be enforced by the imposition of a certain civil penalty;~~ authorizing a disciplinary panel, instead of the Board, to take certain action against a physician who performs acupuncture under certain circumstances; requiring the chairs of certain committees, or the chairs' designees, to serve in an advisory capacity to the Board; requiring certain committees to submit an annual report to the Board; requiring the Board to consider all recommendations of certain committees and annually provide a certain report to the committees; requiring the Board to create and maintain a certain profile on certain licensees; requiring the profiles to contain certain information; requiring the Board to forward a written copy of certain profiles to a person under certain circumstances; requiring the Board to maintain certain profiles on the Board's Web site; requiring the Board to provide a mechanism for correcting factual inaccuracies in certain profiles; requiring the Polysomnography Professional Standards Committee to elect a chair every certain number of years; repealing the requirement that the Board provide a certain explanation to the Physician Assistant Advisory Committee; repealing the requirement that the Board assess a certain fee under certain circumstances; requiring the Board to submit a certain report to certain committees of the General Assembly and the Department of Legislative Services on or before a certain date and annually thereafter for a certain period of time; exempting the Board and the related allied health advisory committees from certain provisions of law requiring a certain preliminary evaluation; making this Act an emergency measure; defining certain terms; making certain conforming, stylistic, and technical changes; and generally relating to the State Board of Physicians and the related allied health advisory committees.

BY adding to
Article – Health Occupations

Section 1-102, 14-101(a-1) and (c-1), 14-206.1, 14-401, 14-416, 14-5A-18.1, 14-5B-15.1, 14-5C-06(d), 14-5C-18.1, 14-5D-16.1, 14-5E-18.1, 15-101(i-1), and 15-316.1

Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 14-101(a) and 15-101(a)

Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14-101(m), 14-202(a), 14-205, 14-206(d)(1), 14-207(b), ~~14-316~~, 14-401, 14-403 through 14-405.1, 14-406, 14-407(a), 14-408, 14-409(a), 14-410, 14-411(a), (b), (d)(1)(ii), (i), (j)(2)(i), (l)(2), (m), (r), and (s), 14-411.1(b), (c)(2), and (f), 14-413, 14-414, 14-504(g), 14-506(b)(2), 14-5A-04(a), 14-5A-06(d), 14-5A-07, 14-5A-16, 14-5A-17, 14-5A-17.1, 14-5A-18(f), 14-5A-19, 14-5A-25, 14-5B-04(a), 14-5B-05(c), 14-5B-06, 14-5B-13, 14-5B-14, 14-5B-14.1, 14-5B-15(f), 14-5B-16, 14-5B-21, 14-5C-04(a), 14-5C-07, 14-5C-16, 14-5C-17, 14-5C-18(f), 14-5C-19, 14-5C-25, 14-5D-03(a), 14-5D-05(e), 14-5D-06, 14-5D-14, 14-5D-15, 14-5D-16, 14-5D-20, 14-5E-04(a), 14-5E-06(d), 14-5E-07, 14-5E-15, 14-5E-16, 14-5E-18(f), 14-5E-19, 14-5E-25, 14-603, 14-702, 15-103(h), 15-202(d) and (e), 15-205, 15-206(a), 15-302(g), 15-312, 15-314 through 15-316, and 15-502

Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing

Article – Health Occupations

Section 15-310(e)

Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8-403(b)(6), (45), (48), (49), (53), (59), and (63)

Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

1-102.

(A) IT IS THE POLICY OF THE STATE THAT HEALTH OCCUPATIONS SHOULD BE REGULATED AND CONTROLLED AS PROVIDED IN THIS ARTICLE TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC.

(B) THE HEALTH OCCUPATIONS BOARDS ESTABLISHED BY THIS ARTICLE, THE MAJORITY OF WHOSE MEMBERS ARE LICENSED OR CERTIFIED UNDER THIS ARTICLE, ARE CREATED TO FUNCTION AS INDEPENDENT BOARDS, WITH THE INTENT THAT A PEER GROUP IS BEST QUALIFIED TO REGULATE, CONTROL, AND OTHERWISE DISCIPLINE IN A FAIR AND UNBIASED MANNER THE LICENSEES OR CERTIFICATE HOLDERS WHO PRACTICE IN THE STATE.

14-101.

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

(A-1) "ALLIED HEALTH PROFESSIONAL" MEANS AN INDIVIDUAL LICENSED BY THE BOARD UNDER SUBTITLE 5A, 5B, 5C, 5D, OR 5E OF THIS TITLE OR TITLE 15 OF THIS ARTICLE.

(C-1) "DISCIPLINARY PANEL" MEANS A DISCIPLINARY PANEL OF THE BOARD ESTABLISHED UNDER § 14-401 OF THIS TITLE.

(m) "Physician Rehabilitation Program" means the program of the Board or the nonprofit entity with which the Board contracts under [§ 14-401(g)] § 14-401.1(G) of this title that evaluates and provides assistance to impaired physicians and other health professionals regulated by the Board who are directed by the Board to receive treatment and rehabilitation for alcoholism, chemical dependency, or other physical, emotional, or mental conditions.

14-202.

(a) (1) The Board shall consist of [21] **22** members appointed by the Governor with the advice of the Secretary and the advice and consent of the Senate.

(2) Of the [21] **22** members:

(i) 11 shall be practicing licensed physicians, at least one of whom shall be a doctor of osteopathy, appointed as provided in subsections (d) and (e) of this section;

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

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

(iv) 1 shall be a [certified] **LICENSED** physician assistant appointed at the Governor's discretion as provided in subsections (f) and (g) of this section;

(v) [1] **2** shall be [a] practicing licensed [physician] **PHYSICIANS** with [a] full-time faculty [appointment] **APPOINTMENTS** appointed to serve as [a representative] **REPRESENTATIVES** of [an] academic medical [institution] **INSTITUTIONS** in [this] **THE** State [appointed from a list containing] **AND OF WHOM:**

1. **1 SHALL BE APPOINTED FROM A LIST CONTAINING** 3 names submitted by the Johns Hopkins University School of Medicine; and

2. **1 SHALL BE APPOINTED FROM A LIST CONTAINING** 3 names submitted by the University of Maryland School of Medicine;

(vi) 5 shall be consumer members; and

(vii) 1 shall be a public member knowledgeable in risk management or quality assurance matters appointed from a list submitted by the Maryland Hospital Association.

14-205.

(a) **IN ADDITION TO THE POWERS AND DUTIES SET FORTH IN THIS TITLE AND IN TITLE 15 OF THIS ARTICLE, THE BOARD SHALL:**

(1) ENFORCE THIS TITLE AND TITLE 15 OF THIS ARTICLE;

(2) ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS TITLE AND TITLE 15 OF THIS ARTICLE;

(3) ESTABLISH POLICIES FOR BOARD OPERATIONS;

(4) MAINTAIN THE RULES, REGULATIONS, AND POLICIES OF THE BOARD SO THAT THE RULES, REGULATIONS, AND POLICIES REFLECT THE CURRENT PRACTICES OF THE BOARD;

(5) OVERSEE:

(I) THE LICENSING REQUIREMENTS FOR PHYSICIANS AND THE ALLIED HEALTH PROFESSIONALS; AND

(II) THE ISSUANCE AND RENEWAL OF LICENSES;

(6) MAINTAIN SECURE AND COMPLETE RECORDS;

(7) REVIEW AND PRELIMINARILY INVESTIGATE COMPLAINTS, INCLUDING ACKNOWLEDGING RECEIPT OF COMPLAINTS AND INFORMING COMPLAINANTS OF THE FINAL DISPOSITION OF COMPLAINTS;

~~**(8) ESTABLISH MECHANISMS FOR IDENTIFYING AND MONITORING THE TREATMENT OF LICENSEES WHO ARE DEPENDENT ON ALCOHOL OR OTHER ADDICTIVE SUBSTANCES AND FOR THE VOLUNTARY SELF-REPORTING OF SUBSTANCE ABUSE ISSUES BY LICENSEES;**~~

~~**(9)**~~ **(8) DEVELOP AND IMPLEMENT METHODS TO:**

~~**(i) IDENTIFY INCOMPETENT LICENSEES WHO FAIL TO MEET ACCEPTABLE STANDARDS OF CARE;**~~

~~**(ii)**~~ **(i) ASSESS AND IMPROVE LICENSEE PRACTICES; AND**

~~**(iii)**~~ **(ii) ENSURE THE ONGOING COMPETENCE OF LICENSEES;**

~~**(10)**~~ **(9) ENSURE THAT AN OPPORTUNITY FOR A HEARING IS PROVIDED TO AN INDIVIDUAL, IN ACCORDANCE WITH LAW, BEFORE ANY ACTION IS TAKEN AGAINST THE INDIVIDUAL;**

~~**(11)**~~ **(10) ADJUDICATE NONDISCIPLINARY MATTERS WITHIN THE BOARD'S JURISDICTION;**

~~**(12)**~~ **(11) REPORT ON ALL DISCIPLINARY ACTIONS, LICENSE DENIALS, AND LICENSE SURRENDERS;**

~~**(13)**~~ **(12) ESTABLISH APPROPRIATE FEES THAT ARE ADEQUATE TO FUND THE EFFECTIVE REGULATION OF PHYSICIANS AND ALLIED HEALTH PROFESSIONALS;**

~~**(14)**~~ **(13) MAKE RECOMMENDATIONS THAT BENEFIT THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC;**

~~(15)~~ (14) **PROVIDE ONGOING EDUCATION AND TRAINING FOR BOARD MEMBERS TO ENSURE THAT THE BOARD MEMBERS CAN COMPETENTLY DISCHARGE THEIR DUTIES;**

~~(16)~~ (15) **DIRECT EDUCATIONAL OUTREACH TO AND COMMUNICATE WITH LICENSEES AND THE PUBLIC;**

~~(17)~~ (16) **DEVELOP AND ADOPT A BUDGET THAT REFLECTS REVENUES AND SUPPORTS THE COSTS ASSOCIATED WITH EACH ALLIED HEALTH PROFESSION REGULATED BY THE BOARD;**

~~(18)~~ (17) **DEVELOP AND APPROVE AN ANNUAL REPORT AND OTHER REQUIRED REPORTS FOR SUBMISSION TO THE SECRETARY, THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE PUBLIC;**

~~(19)~~ (18) **APPROVE CONTRACTS AS NEEDED AND WITHIN BUDGETARY LIMITS;**

~~(20)~~ (19) **APPOINT STANDING AND AD HOC COMMITTEES FROM AMONG BOARD MEMBERS AS NECESSARY;**

~~(21)~~ (20) **DELEGATE TO THE EXECUTIVE DIRECTOR OF THE BOARD THE AUTHORITY TO DISCHARGE BOARD DUTIES, AS DEEMED APPROPRIATE AND NECESSARY BY THE BOARD, AND HOLD THE EXECUTIVE DIRECTOR ACCOUNTABLE TO THE BOARD; AND**

~~(22)~~ (21) **APPOINT MEMBERS OF THE DISCIPLINARY PANELS.**

(B) (1) In addition to the powers set forth elsewhere in this title, the Board may:

(i) Adopt [rules and] regulations to[:

1. Carry out the provisions of this title; or

2. Regulate] **REGULATE** the performance of acupuncture, but only to the extent authorized by § 14-504 of this title;

(ii) After consulting with the State Board of Pharmacy, adopt rules and regulations regarding the dispensing of prescription drugs by a licensed physician;

(iii) Subject to the Administrative Procedure Act, deny a license to an applicant or, **IF AN APPLICANT HAS FAILED TO RENEW THE APPLICANT'S**

LICENSE, refuse to renew or reinstate an applicant's license for any of the reasons that are grounds for action under § 14-404 of this title;

(iv) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a physician or acupuncturist, other than an office of a physician or acupuncturist in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease Control and Prevention's guidelines on universal precautions; and

(v) Contract with others for the purchase of administrative and examination services to carry out the provisions of this title.

(2) The Board **OR A DISCIPLINARY PANEL** may investigate an alleged violation of this title.

[(b)] (C) (1) In addition to the duties set forth elsewhere in this title, the Board shall:

(i) Submit an annual report to the Faculty and to the Secretary;

(ii) Issue, for use in other jurisdictions, a certificate of professional standing to any licensed physician; and

(iii) Keep a list of all license applicants.

(2) (i) The Board shall keep a list of all physicians who are currently licensed.

(ii) The list shall include each physician's designated public address.

(iii) A physician's designated public address may be a post office box only if the physician provides to the Board a nonpublic address, under paragraph (3) of this subsection, that is not a post office box.

(iv) Each list prepared under this paragraph shall be kept as a permanent record of the Board.

(v) The list of currently licensed physicians is a public record.

(3) (i) The Board shall maintain on file a physician's designated nonpublic address, if provided by the physician, to facilitate communication between the physician and the Board.

(ii) The Board shall offer a physician the opportunity to designate a nonpublic address, in addition to the physician's public address, at the time of initial licensure and license renewal.

(iii) A physician shall designate an address where the Board may send the physician mail.

(iv) A physician's designated nonpublic address is not a public record and may not be released by the Board.

14-206.

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

(i) A place of business of a licensed physician; **OR**

(ii) [Private premises where the Board suspects that a person who is not licensed by the Board is practicing, attempting to practice, or offering to practice medicine, based on a formal complaint; or

(iii)] Public premises.

14-206.1.

(A) BASED ON A COMPLAINT RECEIVED BY THE BOARD, THE EXECUTIVE DIRECTOR OF THE BOARD MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR A SEARCH WARRANT TO ENTER PRIVATE PREMISES WHERE THE BOARD OR A DISCIPLINARY PANEL SUSPECTS THAT A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING, ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE.

(B) AN APPLICATION FOR A SEARCH WARRANT SHALL:

(1) BE IN WRITING;

(2) BE VERIFIED BY THE APPLICANT; AND

(3) DESCRIBE THE PREMISES TO BE SEARCHED AND THE NATURE, SCOPE, AND PURPOSE OF THE SEARCH.

(C) A JUDGE WHO RECEIVES AN APPLICATION FOR A SEARCH WARRANT MAY ISSUE A WARRANT ON A FINDING THAT:

(1) THE SCOPE OF THE PROPOSED SEARCH IS REASONABLE;

(2) THE REQUEST FOR A SEARCH WARRANT IS BASED ON A COMPLAINT RECEIVED BY THE BOARD; AND

(3) OBTAINING CONSENT TO ENTER THE PREMISES MAY JEOPARDIZE THE ATTEMPT TO DETERMINE WHETHER A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING, ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE.

(D) (1) A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL SPECIFY THE LOCATION OF THE PREMISES TO BE SEARCHED.

(2) A SEARCH CONDUCTED IN ACCORDANCE WITH A SEARCH WARRANT ISSUED UNDER THIS SECTION MAY NOT EXCEED THE LIMITS SPECIFIED IN THE WARRANT.

(E) A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL BE EXECUTED AND RETURNED TO THE ISSUING JUDGE:

(1) WITHIN THE PERIOD SPECIFIED IN THE WARRANT, WHICH MAY NOT EXCEED 30 DAYS AFTER THE DATE OF ISSUANCE; OR

(2) WITHIN 15 DAYS AFTER THE DATE OF ISSUANCE, IF NO PERIOD IS SPECIFIED IN THE WARRANT.

14-207.

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

(2) The fees charged shall be set so as to approximate the cost of maintaining the Board, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR PHYSICIANS UNDER § 14-401.1(G) OF THIS TITLE.**

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

14-316.

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

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

(3) THE BOARD SHALL ADOPT REGULATIONS THAT ALLOW A LICENSEE SEEKING RENEWAL TO RECEIVE UP TO 5 CONTINUING EDUCATION CREDITS PER RENEWAL PERIOD FOR PROVIDING UNCOMPENSATED, VOLUNTARY MEDICAL SERVICES DURING EACH RENEWAL PERIOD.

~~[(3)]~~ **(4) The Board may not establish or enforce these requirements if they would so reduce the number of physicians in a community as to jeopardize the availability of adequate medical care in that community.**

[(4)] (5) The Board may impose a civil penalty of up to \$100 per continuing medical education credit in lieu of a sanction under § 14-404 of this title, for a first offense, for the failure of a licensee to obtain the continuing medical education credits required by the Board.

14-401.

(A) THERE ARE TWO DISCIPLINARY PANELS THROUGH WHICH ALLEGATIONS OF GROUNDS FOR DISCIPLINARY ACTION AGAINST A LICENSED PHYSICIAN OR AN ALLIED HEALTH PROFESSIONAL SHALL BE RESOLVED.

(B) (1) THE CHAIR OF THE BOARD SHALL ASSIGN EACH MEMBER OF THE BOARD TO ONE OF THE DISCIPLINARY PANELS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.

(2) EACH DISCIPLINARY PANEL SHALL CONSIST OF 11 BOARD MEMBERS.

(3) OF THE 11 MEMBERS ON A DISCIPLINARY PANEL:

(I) 6 SHALL BE PRACTICING LICENSED PHYSICIANS;

(II) 1 SHALL BE A PRACTICING LICENSED PHYSICIAN WITH A FULL-TIME FACULTY APPOINTMENT;

(III) 1 SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OR A LICENSED PHYSICIAN ASSISTANT; AND

(IV) 3 SHALL BE MEMBERS OF THE PUBLIC.

(4) THE CHAIR OF THE BOARD MAY SERVE AS AN EX-OFFICIO MEMBER OF THE DISCIPLINARY PANEL TO WHICH THE CHAIR WAS NOT ASSIGNED AS A MEMBER UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(5) THE CHAIR OF THE BOARD SHALL SELECT A MEMBER OF EACH DISCIPLINARY PANEL TO BE THE CHAIR OF THE DISCIPLINARY PANEL.

(6) A QUORUM OF A DISCIPLINARY PANEL CONSISTS OF ~~6~~ 7 MEMBERS.

[14-401.] 14-401.1.

(a) (1) The Board shall perform any necessary preliminary investigation REGARDING AN ALLEGATION OF GROUNDS FOR DISCIPLINARY OR OTHER ACTION BROUGHT TO THE BOARD'S ATTENTION before [the Board refers] THE ALLEGATION IS ASSIGNED to [an investigatory body an allegation of grounds for disciplinary or other action brought to its attention] A DISCIPLINARY PANEL.

(2) (I) AFTER THE COMPLETION OF ANY NECESSARY PRELIMINARY INVESTIGATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, A COMPLAINT SHALL BE ASSIGNED TO A DISCIPLINARY PANEL.

(II) SUBJECT TO THE PROVISIONS OF THIS SECTION, A DISCIPLINARY PANEL:

1. SHALL DETERMINE THE FINAL DISPOSITION OF A COMPLAINT AGAINST A PHYSICIAN OR AN ALLIED HEALTH PROFESSIONAL; AND

2. HAS THE INDEPENDENT AUTHORITY TO MAKE A DETERMINATION REGARDING THE FINAL DISPOSITION OF A COMPLAINT.

(III) THE BOARD MAY NOT VOTE TO APPROVE OR DISAPPROVE ANY ACTION TAKEN BY A DISCIPLINARY PANEL, INCLUDING THE FINAL DISPOSITION OF A COMPLAINT.

(3) A DISCIPLINARY PANEL THAT IS ASSIGNED A COMPLAINT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION MAY:

(I) CONDUCT ANY ADDITIONAL INVESTIGATION INTO A COMPLAINT THAT IS DEEMED NECESSARY TO DETERMINE WHETHER A VIOLATION OF THIS TITLE OR TITLE 15 OF THIS ARTICLE HAS OCCURRED; AND

(II) ENTER INTO A CONSENT ORDER WITH A PHYSICIAN OR AN ALLIED HEALTH PROFESSIONAL AFTER CONDUCTING A MEETING BETWEEN

THE DISCIPLINARY PANEL AND THE PHYSICIAN OR ALLIED HEALTH PROFESSIONAL TO DISCUSS ANY PROPOSED DISPOSITION OF THE COMPLAINT.

(4) A DISCIPLINARY PANEL THAT IS ASSIGNED A COMPLAINT AGAINST AN ALLIED HEALTH PROFESSIONAL UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL CONSULT WITH THE CHAIR OF THE APPROPRIATE ALLIED HEALTH ADVISORY COMMITTEE, OR THE CHAIR'S DESIGNEE, BEFORE TAKING DISCIPLINARY ACTION AGAINST THE ALLIED HEALTH PROFESSIONAL.

(5) (I) IF A COMPLAINT PROCEEDS TO A HEARING UNDER § 14-405, § 14-5A-17, § 14-5B-14, § 14-5C-17, § 14-5D-15, OR § 14-5E-16 OF THIS TITLE OR § 15-315 OF THIS ARTICLE, THE CHAIR OF THE DISCIPLINARY PANEL THAT WAS ASSIGNED THE COMPLAINT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL REFER THE COMPLAINT TO THE OTHER DISCIPLINARY PANEL.

(II) IF THE COMPLAINT PROCEEDS TO A HEARING AND IS REFERRED TO THE OTHER DISCIPLINARY PANEL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DISCIPLINARY PANEL THAT WAS ASSIGNED THE COMPLAINT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, OR ANY OF ITS MEMBERS, MAY NOT:

- 1. CONTINUE TO HANDLE THE COMPLAINT;**
- 2. PARTICIPATE IN ANY DISCIPLINARY PROCEEDINGS REGARDING THE COMPLAINT; OR**
- 3. DETERMINE THE FINAL DISPOSITION OF THE COMPLAINT.**

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

(c) (1) Except as otherwise provided in this subsection, after [performing any necessary preliminary investigation of an allegation of grounds for disciplinary or other action] **BEING ASSIGNED A COMPLAINT UNDER SUBSECTION (A) OF THIS SECTION**, the [Board] **DISCIPLINARY PANEL** may:

(i) Refer [the] **AN** allegation for further investigation to the entity that has contracted with the Board under subsection (e) of this section;

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

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

(2) **(I)** After [performing any necessary preliminary investigation of an allegation of grounds for disciplinary or other action] **BEING ASSIGNED A COMPLAINT**, the [Board] **DISCIPLINARY PANEL** shall refer any allegation **IN THE COMPLAINT** based on § 14-404(a)(22) of this subtitle to the entity or entities that have contracted with the Board under subsection (e) of this section for further investigation and physician peer review within the involved medical specialty or specialties.

(II) A DISCIPLINARY PANEL SHALL OBTAIN TWO PEER REVIEW REPORTS FROM THE ENTITY OR INDIVIDUAL WITH WHOM THE BOARD CONTRACTED UNDER SUBSECTION (E) OF THIS SECTION FOR EACH ALLEGATION THE DISCIPLINARY PANEL REFERS FOR PEER REVIEW.

(3) If, after [performing any necessary preliminary investigation] **BEING ASSIGNED A COMPLAINT**, the [Board] **DISCIPLINARY PANEL** determines that an allegation involving fees for professional or ancillary services does not constitute grounds for disciplinary or other action, the [Board] **DISCIPLINARY PANEL** shall offer the complainant and the licensee an opportunity to mediate the dispute.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, if an allegation is based on § 14-404(a)(40) of this subtitle, [the Board] **A DISCIPLINARY PANEL**:

1. May determine that an agreement for corrective action is warranted; and

2. Shall notify the licensee of the identified deficiencies and enter into an agreement for corrective action with the licensee as provided in this paragraph.

(ii) [The Board] **A DISCIPLINARY PANEL** may not enter into an agreement for corrective action with a licensee if patient safety is an issue.

(iii) The [Board] **DISCIPLINARY PANEL** shall subsequently evaluate the licensee and shall:

1. Terminate the corrective action if the [Board] **DISCIPLINARY PANEL** is satisfied that the licensee is in compliance with the agreement for corrective action and has corrected the deficiencies; or

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

(iv) An agreement for corrective action under this paragraph may not be made public or considered a disciplinary action under this title.

(v) The Board shall provide a summary of **[the] EACH DISCIPLINARY PANEL’S** corrective action agreements in the executive director’s report of Board activities.

(d) County medical societies shall refer to the Board all complaints that set forth allegations of grounds for disciplinary action under § 14–404 of this subtitle.

(e) (1) **[(i)]** In accordance with subsection (f) of this section, the Board shall enter into a written contract with an entity or individual for confidential physician peer review of allegations based on § 14–404(a)(22) of this subtitle.

[(ii) The Board shall obtain two peer review reports for each allegation it refers for peer review.]

(2) A peer reviewer shall:

(i) Be Board certified;

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

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

(iv) Have no formal actions against the peer reviewer’s own license;

(v) Receive training in peer review;

(vi) Have a standard format for peer review reports; and

(vii) To the extent practicable, be licensed and engaged in the practice of medicine in the State.

(3) The Board may consult with the appropriate specialty health care provider societies in the State to obtain a list of physicians qualified to provide peer review services.

(4) For purposes of peer review, the Board may use sole source procurement under § 13–107 of the State Finance and Procurement Article.

(5) The hearing of charges may not be stayed or challenged because of the selection of peer reviewers under this subsection before the filing of charges.

(f) (1) The entity or individual peer reviewer with which the Board contracts under subsection (e) of this section shall have 90 days for completion of peer review.

(2) The entity or individual peer reviewer may apply to the Board for an extension of up to 30 days to the time limit imposed under paragraph (1) of this subsection.

(3) If an extension is not granted, and 90 days have elapsed, the Board may contract with any other entity or individual who meets the requirements of subsection (e)(2) of this section for the services of peer review.

(4) If an extension has been granted, and 120 days have elapsed, the Board may contract with any other entity or individual who meets the requirements of subsection (e)(2) of this section for the services of peer review.

(g) ~~(1) Except as provided in paragraph (2) of this subsection, on or before January 1, 2008, the~~ **THE** Board shall issue a request for proposals and enter into a written contract with a nonprofit entity to provide rehabilitation services for physicians or other allied health professionals directed by the Board to receive rehabilitation services.

~~(2) If the Board does not receive a responsive proposal under paragraph (1) of this subsection or is not able to contract with a nonprofit entity, the Board shall provide directly rehabilitation services for physicians.~~

(h) (1) To facilitate the investigation and prosecution of disciplinary matters and the mediation of fee disputes coming before it, the Board may contract with an entity or entities for the purchase of investigatory, mediation, and related services.

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

- (i) Investigators;
- (ii) Attorneys;
- (iii) Accountants;
- (iv) Expert witnesses;

- (v) Consultants; and
- (vi) Mediators.

(i) The Board **OR A DISCIPLINARY PANEL** may issue subpoenas and administer oaths in connection with any investigation under this section and any hearing or proceeding before it.

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

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

(2) If [the Board] **A DISCIPLINARY PANEL** is unable to complete the disposition of a complaint within 1 year, the Board shall include in the record of that complaint a detailed explanation of the reason for the delay.

(L) A DISCIPLINARY PANEL, IN CONDUCTING A MEETING WITH A PHYSICIAN OR ALLIED HEALTH PROFESSIONAL TO DISCUSS THE PROPOSED DISPOSITION OF A COMPLAINT, SHALL PROVIDE AN OPPORTUNITY TO APPEAR BEFORE THE DISCIPLINARY PANEL TO BOTH THE LICENSEE WHO HAS BEEN CHARGED AND THE INDIVIDUAL WHO HAS FILED THE COMPLAINT AGAINST THE LICENSEE GIVING RISE TO THE CHARGE.

14-403.

(a) Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, certification, or registration of an individual the Board regulates, the individual may not surrender the license, certification, or registration nor may the license, certification, or registration lapse by operation of law while the individual is under investigation or while charges are pending.

(b) [The Board] **A DISCIPLINARY PANEL** may set conditions on its agreement to accept surrender of a license, certification, or registration.

14-404.

(a) Subject to the hearing provisions of § 14-405 of this subtitle, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of the quorum **OF THE DISCIPLINARY PANEL**, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of:
 - (i) Immoral conduct in the practice of medicine; or
 - (ii) Unprofessional conduct in the practice of medicine;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Solicits or advertises in violation of § 14–503 of this title;
- (6) Abandons a patient;
- (7) Habitually is intoxicated;
- (8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (9) Provides professional services:
 - (i) While under the influence of alcohol; or
 - (ii) While using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (10) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (11) Willfully makes or files a false report or record in the practice of medicine;
- (12) Willfully fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (13) On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article, fails to provide details of a patient’s medical record to the patient, another physician, or hospital;

(14) Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician;

(15) Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient;

(16) Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient, unless the licensed physician discloses on the bill to the patient or third-party payor:

(i) The name of the laboratory;

(ii) The amount paid to the laboratory for the test or test series;
and

(iii) The amount of procurement or processing charge of the licensed physician, if any, for each specimen taken;

(17) Makes a willful misrepresentation in treatment;

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine;

(19) Grossly overutilizes health care services;

(20) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(32) Fails to display the notice required under § 14–415 of this subtitle;

(33) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**;

(34) Is convicted of insurance fraud as defined in § 27–801 of the Insurance Article;

(35) Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the licensee's medical education;

(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine;

(37) By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(38) By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board **OR A DISCIPLINARY PANEL** in furtherance of any investigation of the Board **OR A DISCIPLINARY PANEL**;

(39) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(40) Fails to keep adequate medical records as determined by appropriate peer review; or

(41) Performs a cosmetic surgical procedure in an office or a facility that is not:

(i) Accredited by:

1. The American Association for Accreditation of Ambulatory Surgical Facilities;

2. The Accreditation Association for Ambulatory Health Care; or

3. The Joint Commission on the Accreditation of Health Care Organizations; or

(ii) Certified to participate in the Medicare program, as enacted by Title XVIII of the Social Security Act.

(b) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere

with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

(c) (1) Except as provided in paragraph (2) of this subsection, [the Board] **A DISCIPLINARY PANEL** may not reprimand, place on probation, or suspend or revoke a license of a licensee for providing a patient with a written statement, medical records, or testimony that, in the licensee's professional opinion, the patient is likely to receive therapeutic or palliative relief from marijuana.

(2) Nothing in this subsection shall be deemed to release a licensee from the duty to exercise a professional standard of care when evaluating a patient's medical condition.

14-405.

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

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

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

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

(d) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the hearing officer may hear and refer the matter to the Board **OR A DISCIPLINARY PANEL** for disposition.

(e) After performing any necessary hearing under this section, the hearing officer shall refer proposed factual findings to the Board **OR A DISCIPLINARY PANEL** for the Board's **OR DISCIPLINARY PANEL'S** disposition.

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

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

14-405.1.

(a) If after a hearing under § 14-405 of this subtitle [the Board] **A DISCIPLINARY PANEL** finds that there are grounds under § 14-404 of this subtitle to suspend or revoke a license to practice medicine or osteopathy, or to reprimand a licensed physician or osteopath, the [Board] **DISCIPLINARY PANEL** may impose a fine subject to the Board's regulations:

- (1) Instead of suspending the license; or
- (2) In addition to suspending or revoking the license or reprimanding the licensee.

(b) The Board shall pay any fines collected under this section into the General Fund.

14-406.

(a) Following the filing of charges, if a majority of the quorum of [the Board] **A DISCIPLINARY PANEL** finds that there are grounds for action under § 14-404 of this subtitle, the [Board] **DISCIPLINARY PANEL** shall pass an order in accordance with the Administrative Procedure Act.

(b) After the charges are filed, if [the Board] **A DISCIPLINARY PANEL** finds, on an affirmative vote of a majority of its quorum, that there are no grounds for action under § 14-404 of this subtitle, the [Board] **DISCIPLINARY PANEL**:

- (1) Immediately shall dismiss the charges and exonerate the licensee;
- (2)
 - (i) Except as provided in item (ii) of this [paragraph] **ITEM**, shall expunge all records of the charges 3 years after the charges are dismissed; or
 - (ii) If the physician executes a document releasing the Board from any liability related to the charges, shall immediately expunge all records of the charges; and

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

14-407.

(a) An order of suspension or revocation is effective, in accordance with its terms and conditions, as soon as [the Board] **A DISCIPLINARY PANEL** files it under this title.

14-408.

(a) Except as provided in this section for an action under § 14-404 of this subtitle or § 14-5A-17 of this title, any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** in a contested case, as defined in the Administrative Procedure Act, may:

(1) Appeal that decision to the Board of Review; and

(2) Then take any further appeal allowed by the Administrative Procedure Act.

(b) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under § 14-404 of this subtitle or § 14-5A-17 of this title may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(c) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(d) The Board may appeal from any decision that reverses or modifies [its] **AN order OF THE BOARD OR A DISCIPLINARY PANEL**.

14-409.

(a) **(1)** Except as provided in subsection (b) of this section, [the Board] **A DISCIPLINARY PANEL** may reinstate the license of an individual whose license has been suspended or revoked under this title only in accordance with:

[(1)] (I) The terms and conditions of the order of suspension or revocation;

[(2)] (II) An order of reinstatement issued by the [Board] **DISCIPLINARY PANEL**; or

[(3)] (III) A final judgment in any proceeding for review.

(2) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

14-410.

(a) Except by the express stipulation and consent of all parties to a proceeding before the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies, in a civil or criminal action:

(1) The proceedings, records, or files of the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies are not discoverable and are not admissible in evidence; and

(2) Any order passed by the Board **OR DISCIPLINARY PANEL** is not admissible in evidence.

(b) This section does not apply to a civil action brought by a party to a proceeding before the Board **OR A DISCIPLINARY PANEL** who claims to be aggrieved by the decision of the Board **OR THE DISCIPLINARY PANEL**.

(c) If any medical or hospital record or any other exhibit is subpoenaed and otherwise is admissible in evidence, the use of that record or exhibit in a proceeding before the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies does not prevent its production in any other proceeding.

14-411.

(a) In this section, “record” means the proceedings, records, or files of the Board **OR A DISCIPLINARY PANEL**.

(b) Except as otherwise expressly provided in this section and § 14-411.1 of this subtitle, the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies may not disclose any information contained in a record.

(d) The Board shall disclose any information contained in a record to:

(1) A committee of a hospital, health maintenance organization, or related institution if:

(ii) **[The Board] A DISCIPLINARY PANEL** has issued an order as to a licensed physician on whom the information is requested; and

(i) Following the filing of charges or notice of initial denial of license application, the Board shall disclose the filing to the public **ON THE BOARD’S WEB SITE**.

(j) The Board may disclose any information contained in a record to a licensing or disciplinary authority of another state if:

(2) The disclosure of any information is limited to the pendency of an allegation of a ground for disciplinary or other action by **[the Board] A DISCIPLINARY PANEL** until:

(i) The **[Board] DISCIPLINARY PANEL** has passed an order under § 14–406 of this subtitle; or

(l) The Board may disclose any information contained in a record to the State Medical Assistance Compliance Administration, the Secretary of the U.S. Department of Health and Human Services or the Secretary's designee, or any health occupational regulatory board if:

(2) (i) **[The Board] A DISCIPLINARY PANEL** has issued an order under § 14–406 of this subtitle; or

(ii) An allegation is pending before the Board **OR A DISCIPLINARY PANEL**; and

(m) If the Board **OR A DISCIPLINARY PANEL** determines that the information contained in a record concerns possible criminal activity, the Board **OR THE DISCIPLINARY PANEL** shall disclose the information to a law enforcement or prosecutorial official.

(r) This section does not apply to:

(1) Any disclosure of a record by the Board to **A DISCIPLINARY PANEL OR** any of its **OTHER** investigatory bodies; or

(2) A licensee, certificate holder, or registration holder who has been charged under this title or a party to a proceeding before the Board **OR A DISCIPLINARY PANEL** who claims to be aggrieved by the decision of the Board **OR THE DISCIPLINARY PANEL**.

(s) If any information contained in any medical or hospital document or any other exhibit is otherwise open for disclosure under law, the use of that document or exhibit in any record of the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies does not prevent its disclosure in any other proceeding.

14–411.1.

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

(1) **A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY**

PANEL HAS TAKEN ACTION UNDER § 14-404 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES.

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

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

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

[(4)] (5) A description of a conviction or entry of a plea of guilty or nolo contendere by the licensee for a crime involving moral turpitude reported to the Board under **[(§ 14-413(b)] § 14-416** of this subtitle; and

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

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

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

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

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

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

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

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

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

STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL; and

(f) The Board shall include information relating to **[a] CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY** final disciplinary action taken by **[the Board] A DISCIPLINARY PANEL** against a licensee in the licensee's profile within 10 days after **THE CHARGES ARE FILED OR** the action becomes final.

14-413.

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

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

1. Is employed by the hospital or related institution;
2. Has privileges with the hospital or related institution;

and

3. Has applied for privileges with the hospital or related institution; ~~{and}~~

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

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

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

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

4. A licensed physician or an individual in a postgraduate training program voluntarily resigned from the staff, employ, or training

program of the hospital or related institution for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; or

5. The hospital or related institution placed any other restrictions or conditions on any of the licensed physicians as listed in items 1 through 4 of this subparagraph for any reasons that might be grounds for disciplinary action under § 14-404 of this subtitle;~~AND~~

~~(III) STATES THAT NO ACTION WAS TAKEN AGAINST THE LICENSED PHYSICIAN IF THE HOSPITAL OR RELATED INSTITUTION DID NOT TAKE ACTION AGAINST THE LICENSED PHYSICIAN DURING THE PERIOD COVERED BY THE REPORT.~~

(2) The hospital or related institution shall:

(i) Submit the report within 10 days of any action described in paragraph (1)(ii) of this subsection; and

(ii) State in the report the reasons for its action or the nature of the formal accusation pending when the physician resigned.

(3) The Board may extend the reporting time under this subsection for good cause shown.

(4) The minutes or notes taken in the course of determining the denial, limitation, reduction, or termination of the staff privileges of any physician in a hospital or related institution are not subject to review or discovery by any person.

(5) THE BOARD, IN CONSULTATION WITH ALL INTERESTED PARTIES, MAY ADOPT REGULATIONS TO DEFINE:

(I) CHANGES IN EMPLOYMENT OR PRIVILEGES THAT REQUIRE REPORTING UNDER THIS SECTION; AND

(II) ACTIONS BY LICENSEES THAT ARE GROUNDS FOR DISCIPLINE AND THAT REQUIRE REPORTING UNDER THIS SECTION.

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

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

[(c) (B) The Board may enforce this section by subpoena.

~~[(d)] (C)~~ Any person shall have the immunity from liability described under § 5-715(d) of the Courts and Judicial Proceedings Article for giving any of the information required by this section.

~~[(e)] (D)~~ A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board ~~OR A DISCIPLINARY PANEL~~ under this title.

~~[(f)] (E)~~ (1) The Board may impose a civil penalty of up to \$5,000 for failure to report under this section.

(2) The Board shall remit any penalty collected under this subsection into the General Fund of the State.

14-414.

(a) (1) Every 6 months, each alternative health system as defined in § 1-401 of this article shall file with the Board a report that:

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

1. Is employed by the alternative health system;
2. Is under contract with the alternative health system;

and

3. Has completed a formal application process to become under contract with the alternative health system; ~~and~~

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

1. The alternative health system denied the formal application of a physician to contract with the alternative health system or limited, reduced, otherwise changed, or terminated the contract of a physician, or the physician resigned whether or not under formal accusation, if the denial, limitation, reduction, change, termination, or resignation is for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; or

2. The alternative health system placed any other restrictions or conditions on any licensed physician for any reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; ~~AND~~.

~~(III) STATES THAT NO ACTION WAS TAKEN AGAINST THE LICENSED PHYSICIAN IF THE ALTERNATIVE HEALTH SYSTEM DID NOT TAKE ACTION AGAINST THE LICENSED PHYSICIAN DURING THE PERIOD COVERED BY THE REPORT.~~

(2) The alternative health system shall:

(i) Submit the report within 10 days of any action described in paragraph (1)(ii) of this subsection; and

(ii) State in the report the reasons for its action or the nature of the formal accusation pending when the physician resigned.

(3) The Board may extend the reporting time under this subsection for good cause shown.

(4) The minutes or notes taken in the course of determining the denial, limitation, reduction, or termination of the employment contract of any physician in an alternative health system are not subject to review or discovery by any person.

(5) THE BOARD, IN CONSULTATION WITH ALL INTERESTED PARTIES, MAY ADOPT REGULATIONS TO DEFINE:

(I) CHANGES IN EMPLOYMENT OR PRIVILEGES THAT REQUIRE REPORTING UNDER THIS SECTION; AND

(II) ACTIONS BY LICENSEES THAT ARE GROUNDS FOR DISCIPLINE AND REQUIRE REPORTING UNDER THIS SECTION.

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

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

[(c) (B) The Board may enforce this section by subpoena.

[(d) (C) Any person shall have the immunity from liability described under § 5-715(d) of the Courts and Judicial Proceedings Article for giving any of the information required by this section.

[(e)] **(D)** A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board **OR A DISCIPLINARY PANEL** under this title.

[(f)] **(E)** **(1)** [Failure to report pursuant to the requirements of this section shall result in imposition of a civil penalty of up to \$5,000 by a circuit court of this State] **THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$5,000 FOR FAILURE TO REPORT UNDER THIS SECTION.**

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

14-416.

(A) ~~(1)~~ EACH COURT SHALL REPORT TO THE BOARD EACH CONVICTION OF OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY A PHYSICIAN FOR ANY CRIME INVOLVING MORAL TURPITUDE.

~~(2)~~ (B) THE COURT SHALL SUBMIT THE REPORT WITHIN 10 DAYS AFTER THE CONVICTION OR ENTRY OF THE PLEA.

~~(B) FAILURE TO REPORT UNDER THIS SECTION SHALL RESULT IN IMPOSITION OF A CIVIL PENALTY OF UP TO \$5,000 BY A CIRCUIT COURT OF THE STATE.~~

14-504.

(g) Subject to the hearing provisions of § 14-405 of this title, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of its quorum, may reprimand or place a physician who performs acupuncture on probation or suspend or revoke the registration of a physician for:

(1) Any conduct prohibited under the provisions of this section or prohibited under any regulation adopted pursuant to the provisions of this section;

(2) Except in an emergency life-threatening situation where it is not feasible or practicable, failing to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions; or

(3) Failing to display the notice required under subsection (h) of this section.

14-506.

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

(2) Any record of a proceeding or transaction before the entity or individual that contracts with the Board or one of its committees that relates to any investigation or report under [§ 14-401] § 14-401.1 of this title as to an allegation of grounds for disciplinary or other action.

14-5A-04.

(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and the other services it provides to respiratory care practitioners.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to respiratory care practitioners, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR RESPIRATORY CARE PRACTITIONERS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5A-06.

(d) (1) From among its members, the Committee shall elect a chair once every 2 years.

(2) THE CHAIR, OR THE CHAIR'S DESIGNEE, SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.

14-5A-07.

(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;

(2) Develop and recommend to the Board a code of ethics for the practice of respiratory care for adoption by the Board;

(3) If requested, develop and recommend to the Board standards of care for the practice of respiratory care;

(4) Develop and recommend to the Board the requirements for licensure as a respiratory care practitioner;

(5) Evaluate the credentials of applicants as necessary and recommend licensure of applicants who fulfill the requirements for a license to practice respiratory care;

(6) Develop and recommend to the Board continuing education requirements for license renewal;

(7) Provide the Board with recommendations concerning the practice of respiratory care;

(8) Develop and recommend to the Board criteria related to the practice of respiratory care in the home setting; [and]

(9) Keep a record of its proceedings; **AND**

(10) SUBMIT AN ANNUAL REPORT TO THE BOARD.

(B) THE BOARD SHALL:

(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE;
AND

(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.

14-5A-16.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, a licensed respiratory care practitioner may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

14-5A-17.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, on the affirmative vote of a majority of a quorum **OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE DISCIPLINARY PANEL, MAY** reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:

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

(2) Fraudulently or deceptively uses a license;

- (3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (8) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of respiratory care;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing respiratory care;
- (15) Knowingly practices respiratory care with an unauthorized individual or aids an unauthorized individual in the practice of respiratory care;
- (16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State;

(19) Knowingly submits false statements to collect fees for which services are not provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) **[The licensed individual] HAS:**

1. Surrendered the license issued by the state or country; or
2. Allowed the license issued by the state or country to expire or lapse;

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

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

(23) Practices or attempts to practice beyond the authorized scope of practice;

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

(25) Practices or attempts to practice a respiratory care procedure or uses or attempts to use respiratory care equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment;

(26) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**; or

(27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician.

(b) Except as otherwise provided in the Administrative Procedure Act, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14-405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5A-17.1.

(a) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(b) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(c) The Board may appeal from any decision that reverses or modifies [its] **AN order OF THE BOARD OR A DISCIPLINARY PANEL**.

14-5A-18.

(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board **OR A DISCIPLINARY PANEL** under this title.

14-5A-18.1.

(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF A LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.

(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:

(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 14-5A-17 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;

(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;

(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD IF THE BOARD KNOWS ABOUT THE DISCIPLINARY ACTION;

(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 14-5A-17(C) OF THIS SUBTITLE; AND

(5) THE PUBLIC ADDRESS OF THE LICENSEE.

(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.

(D) THE BOARD:

(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND

(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.

(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.

(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

14-5A-19.

(A) On the application of an individual whose license has been revoked, [the Board] A DISCIPLINARY PANEL, on the affirmative vote of a majority of the quorum OF THE DISCIPLINARY PANEL, may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

14-5A-25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] **2018**.

14-5B-04.

(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and other services it provides to licensees and holders of temporary licenses.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to licensees and holders of temporary licenses, INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR LICENSEES AND HOLDERS OF TEMPORARY LICENSES UNDER § 14-401.1(G) OF THIS TITLE.

14-5B-05.

(c) (1) From among its members, the Committee shall elect a chair once every 2 years.

(2) THE CHAIR, OR THE CHAIR'S DESIGNEE, SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.

14-5B-06.

(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Make recommendations to the Board on regulations necessary to carry out the provisions of this subtitle;

(2) Make recommendations to the Board on a code of ethics for the practice of radiation therapy, the practice of radiography, the practice of nuclear medicine technology, and the practice of radiology assistance for adoption by the Board;

(3) On request, make recommendations to the Board on standards of care for the practice of radiation therapy, the practice of radiography, the practice of nuclear medicine technology, and the practice of radiology assistance;

(4) Make recommendations to the Board on the requirements for licensure as a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant;

(5) On request, review applications for licensure as a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant and make recommendations to the Board;

(6) Develop and recommend to the Board continuing education requirements for license renewal;

(7) Advise the Board on matters related to the practice of radiation therapy, the practice of radiography, the practice of nuclear medicine technology, and the practice of radiology assistance; [and]

(8) Keep a record of its proceedings; **AND**

(9) SUBMIT AN ANNUAL REPORT TO THE BOARD.

(B) THE BOARD SHALL:

(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE;

AND

(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.

14-5B-13.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license or temporary license, a licensee or holder of a temporary license may not surrender the license or temporary license and the license or temporary license may not lapse by operation of law while the licensee or holder of a temporary license is under investigation or while charges are pending against the licensee or holder of a temporary license.

14-5B-14.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, on the affirmative vote of a majority of the quorum **OF THE BOARD**, may deny a license or temporary license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM OF THE DISCIPLINARY PANEL**, MAY reprimand any licensee or holder of a temporary license, place any licensee or holder of a temporary license on probation, or suspend or revoke a license, if the applicant licensee or holder of a temporary license:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or temporary license for the applicant, licensed individual, holder of a temporary license, or for another;
- (2) Fraudulently or deceptively uses a license or temporary license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (8) Provides professional services while:
 - (i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication;

(9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(10) Willfully makes or files a false report or record in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;

(12) Breaches patient confidentiality;

(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;

(14) Knowingly makes a misrepresentation while practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

(15) Knowingly practices radiation therapy, radiography, nuclear medicine technology, or radiology assistance with an unauthorized individual or aids an unauthorized individual in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

(16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(18) Fails to meet appropriate standards for the delivery of quality radiation therapy, radiography, nuclear medicine technology, or radiology assistance care performed in any outpatient surgical facility, office, hospital or related institution, or any other location in this State;

(19) Knowingly submits false statements to collect fees for which services are not provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) **[The licensed individual] HAS:**

1. Surrendered the license issued by the state or country; or

2. Allowed the license issued by the state or country to expire or lapse;

(21) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

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

(23) Practices or attempts to practice beyond the authorized scope of practice;

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

(25) Practices or attempts to practice a radiation therapy, radiography, nuclear medicine technology, or radiology assistance procedure or uses radiation therapy, radiography, nuclear medicine technology, or radiology assistance equipment if the applicant or licensee or holder of a temporary license has not received education, internship, training, or experience in the performance of the procedure or the use of the equipment;

(26) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**; or

(27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician.

(b) Except as otherwise provided in the Administrative Procedure Act, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14–405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a licensee or holder of a temporary license if the licensee or holder of a temporary license is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license or temporary license on the certification by the Office of the Attorney General.

14-5B-14.1.

(a) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(b) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(c) The Board may appeal from any decision that reverses or modifies [its] **THE** order **OF THE BOARD OR A DISCIPLINARY PANEL**.

14-5B-15.

(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board **OR A DISCIPLINARY PANEL** under this title.

14-5B-15.1.

(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.

(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:

(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY

PANEL HAS TAKEN ACTION UNDER § 14-5B-14 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;

(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;

(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD IF THE BOARD KNOWS OF THE DISCIPLINARY ACTION;

(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 14-5B-14(C) OF THIS SUBTITLE; AND

(5) THE PUBLIC ADDRESS OF THE LICENSEE.

(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.

(D) THE BOARD:

(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND

(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.

(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.

(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE

IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

14-5B-16.

(A) On the application of an individual whose license has been revoked, [the Board] **A DISCIPLINARY PANEL** may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

14-5B-21.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, and subject to the termination of this title under § 14-702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] **2018**.

14-5C-04.

(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and other services it provides to polysomnographic technologists.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to polysomnographic technologists, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR POLYSOMNOGRAPHIC TECHNOLOGISTS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5C-06.

(D) (1) FROM AMONG ITS MEMBERS, THE COMMITTEE SHALL ELECT A CHAIR ONCE EVERY 2 YEARS.

(2) THE CHAIR, OR THE CHAIR'S DESIGNEE, SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.

14-5C-07.

(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

- (1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;
- (2) Develop and recommend to the Board a code of ethics for the practice of polysomnography for adoption by the Board;
- (3) Develop and recommend to the Board standards of care for the practice of polysomnography;
- (4) Develop and recommend to the Board the requirements for licensure as a polysomnographic technologist, including:
 - (i) Criteria for the educational and clinical training of licensed polysomnographic technologists; and
 - (ii) Criteria for a professional competency examination and testing of applicants for a license to practice polysomnography;
- (5) Develop and recommend to the Board criteria for licensed polysomnographic technologists who are licensed in other states to practice in this State;
- (6) Evaluate the accreditation status of education programs in polysomnography for approval by the Board;
- (7) Evaluate the credentials of applicants and recommend licensure of applicants who fulfill the requirements for a license to practice polysomnography;
- (8) Develop and recommend to the Board continuing education requirements for license renewal;
- (9) Provide the Board with recommendations concerning the practice of polysomnography;
- (10) Develop and recommend to the Board criteria for the direction of students in clinical education programs by licensed polysomnographic technologists and licensed physicians;
- (11) Keep a record of its proceedings; and
- (12) Submit an annual report to the Board.

(B) THE BOARD SHALL:

- (1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE;**

AND

(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.

14-5C-16.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, a licensed polysomnographic technologist may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

14-5C-17.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, **ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE DISCIPLINARY PANEL**, MAY reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of polysomnography;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (8) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication;

- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of polysomnography;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing polysomnography;
- (15) Knowingly practices polysomnography with an unauthorized individual or aids an unauthorized individual in the practice of polysomnography;
- (16) Knowingly delegates a polysomnographic duty to an unlicensed individual;
- (17) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;
- (18) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (19) Fails to meet appropriate standards for the delivery of polysomnographic services performed in a hospital sleep laboratory or a stand-alone sleep center;
- (20) Knowingly submits false statements to collect fees for which services are not provided;
- (21) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) Has:

1. Surrendered the license, if any, issued by the state or country; or

2. Allowed the license, if any, issued by the state or country to expire or lapse;

(22) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

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

(24) Practices or attempts to practice beyond the authorized scope of practice;

(25) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

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

(27) Practices or attempts to practice a polysomnography procedure or uses or attempts to use polysomnography equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment.

(b) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14–405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving

moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5C-18.

(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board **OR A DISCIPLINARY PANEL** under this title.

14-5C-18.1.

(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.

(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:

(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 14-5C-17 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;

(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;

(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD IF THE BOARD KNOWS OF THE DISCIPLINARY ACTION;

(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 14-5C-17(C) OF THIS SUBTITLE; AND

(5) THE PUBLIC ADDRESS OF THE LICENSEE.

(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER

STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.

(D) THE BOARD:

(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND

(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.

(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.

(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

14-5C-19.

(A) On the application of an individual whose license has been revoked, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of its full authorized membership, may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

14-5C-25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] **2018**.

14-5D-03.

(a) (1) The Board shall set reasonable fees for the issuance and renewal of licenses and the other services it provides to athletic trainers.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to athletic trainers, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR ATHLETIC TRAINERS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5D-05.

(e) (1) From among its members, the Committee shall elect a chair every 2 years.

(2) **THE CHAIR SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.**

14-5D-06.

(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Develop and recommend to the Board regulations to carry out this subtitle;

(2) Develop and recommend to the Board continuing education requirements for license renewal;

(3) Provide the Board with recommendations concerning the practice of athletic training;

(4) Develop and recommend to the Board an evaluation and treatment protocol for use by an athletic trainer and the physician with whom the athletic trainer practices;

(5) Provide advice and recommendations to the Board on individual evaluation and treatment protocols when requested; [and]

(6) Keep a record of its proceedings; **AND**

(7) **SUBMIT AN ANNUAL REPORT TO THE BOARD.**

(B) **THE BOARD SHALL:**

(1) **CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE;**
AND

(2) **PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.**

14-5D-14.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, **ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE DISCIPLINARY PANEL**, MAY reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of athletic training;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Habitually is intoxicated;
- (7) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (8) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article, or any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of athletic training;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (12) Breaches patient confidentiality;

(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any individual for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;

(14) Knowingly makes a misrepresentation while practicing athletic training;

(15) Knowingly practices athletic training with an unauthorized individual or aids an unauthorized individual in the practice of athletic trainer services;

(16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(17) Is disciplined by a licensing, certifying, or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this section;

(18) Fails to meet appropriate standards for the delivery of athletic training services;

(19) Knowingly submits false statements to collect fees for which services have not been provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) **[The licensed individual] HAS:**

1. Surrendered the license issued by the state or country; or

2. Allowed the license issued by the state or country to expire or lapse;

(21) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

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

(23) Practices or attempts to practice beyond the authorized scope of practice;

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

(25) Practices or attempts to practice an athletic training procedure or uses or attempts to use athletic training equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment;

(26) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**;

(27) Fails to practice under the supervision of a physician or violates the approved evaluation and treatment protocol; or

(28) Violates an order of the Board **OR A DISCIPLINARY PANEL**, including any condition of probation.

(b) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process, if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5D-15.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board **OR A DISCIPLINARY PANEL** takes any action under § 14-5D-14 of this subtitle, [it] **THE BOARD OR THE DISCIPLINARY PANEL** shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

(2) The hearing officer shall give notice and hold the hearing in accordance with Title 10, Subtitle 2[,] of the State Government Article.

(3) The Board **OR A DISCIPLINARY PANEL** may administer oaths in connection with any proceedings under this section.

(4) At least 14 days before the hearing, a hearing notice shall be sent by certified mail to the last known address of the individual.

(b) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(c) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(d) The Board may appeal from any decision that reverses or modifies [its] **AN order OF THE BOARD OR A DISCIPLINARY PANEL.**

14-5D-16.

(A) On the application of an individual whose license has been revoked, [the Board] **A DISCIPLINARY PANEL** may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

14-5D-16.1.

(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.

(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:

(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 14-5D-14 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;

(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;

(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD IF THE BOARD KNOWS OF THE DISCIPLINARY ACTION;

(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 14-5D-14(B) OF THIS SUBTITLE; AND

(5) THE PUBLIC ADDRESS OF THE LICENSEE.

(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.

(D) THE BOARD:

(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND

(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.

(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.

(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

14-5D-20.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of

this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] **2018**.

14-5E-04.

(a) (1) The Board shall set reasonable fees for the issuance and renewal of licenses and other services it provides to perfusionists.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to perfusionists, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR PERFUSIONISTS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5E-06.

(d) (1) From among its members, the Committee shall elect a chair every 2 years.

(2) THE CHAIR SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.

14-5E-07.

(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

- (1) Develop and recommend to the Board:
 - (i) Regulations to carry out the provisions of this subtitle;
 - (ii) A code of ethics for the practice of perfusion for adoption by the Board;
 - (iii) Recommendations concerning the practice of perfusion, including standards of care for the practice of perfusion; and
 - (iv) Continuing education requirements for license renewal;

[and]

(2) Keep a record of its proceedings; **AND**

(3) SUBMIT AN ANNUAL REPORT TO THE BOARD.

(B) THE BOARD SHALL:

(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE;
AND

(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.

14-5E-15.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, a licensed perfusionist may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

14-5E-16.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, **ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM OF THE DISCIPLINARY PANEL, MAY** reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:

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

(2) Fraudulently or deceptively uses a license;

(3) Is guilty of unprofessional or immoral conduct in the practice of perfusion;

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

(5) Abandons a patient;

(6) Is habitually intoxicated;

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

(8) Provides professional services while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication;

- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of perfusion;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing perfusion;
- (15) Knowingly practices perfusion with an unauthorized individual or aids an unauthorized individual in the practice of perfusion;
- (16) Knowingly delegates a perfusion duty to an unlicensed individual;
- (17) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;
- (18) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (19) Fails to meet appropriate standards for the delivery of perfusion services;
- (20) Knowingly submits false statements to collect fees for which services are not provided;
- (21) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and
 - (ii) Has:

1. Surrendered the license, if any, issued by the state or country; or

2. Allowed the license, if any, issued by the state or country to expire or lapse;

(22) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

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

(24) Practices or attempts to practice beyond the authorized scope of practice;

(25) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

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

(27) Practices or attempts to practice a perfusion procedure or uses or attempts to use perfusion equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment; or

(28) Fails to cooperate with a lawful investigation of the Board **OR A DISCIPLINARY PANEL**.

(b) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14–405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving

moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5E-18.

(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board **OR A DISCIPLINARY PANEL** under this title.

14-5E-18.1.

(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.

(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:

(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 14-5E-16 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;

(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;

(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;

(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 14-5E-16(C) OF THIS SUBTITLE; AND

(5) THE PUBLIC ADDRESS OF THE LICENSEE.

(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER

STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.

(D) THE BOARD:

(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND

(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.

(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.

(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

14-5E-19.

(A) On the application of an individual whose license has been revoked, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of its full authorized membership, may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

14-5E-25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2022] **2018**.

14-603.

A person may not make any false statement, report, or representation to the Board **OR A DISCIPLINARY PANEL**.

14-702.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, [2013] **2018**.

15-101.

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

(I-1) “DISCIPLINARY PANEL” MEANS A DISCIPLINARY PANEL OF THE BOARD ESTABLISHED UNDER § 14-401 OF THIS ARTICLE.

15-103.

(h) A report under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board **OR A DISCIPLINARY PANEL** under this title.

15-202.

(d) A Committee [chairperson] **CHAIR** and a secretary shall be selected every 2 years by a majority vote of the membership of the Committee.

(e) The [chairperson] **CHAIR, OR THE CHAIR’S DESIGNEE**, shall serve in an advisory capacity to the Board as a representative of the Committee.

15-205.

(a) In addition to the powers set forth elsewhere in this title, the Committee, on its initiative or on the Board’s request, may:

(1) Recommend to the Board regulations for carrying out the provisions of this title;

(2) Recommend to the Board approval, modification, or disapproval of an application for licensure or a delegation agreement;

(3) Report to the Board any conduct of a supervising physician or a physician assistant that may be cause for disciplinary action under this title or under § 14-404 of this article; and

(4) Report to the Board any alleged unauthorized practice of a physician assistant.

(B) THE COMMITTEE SHALL SUBMIT AN ANNUAL REPORT TO THE BOARD.

[(b)] (C) (1) In addition to the duties set forth elsewhere in this title, the Board shall adopt regulations to carry out the provisions of this title.

(2) The Board shall:

(i) Consider all recommendations of the Committee; and

(ii) Provide [a written explanation of the Board's reasons for rejecting or modifying the Committee's recommendations] **TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.**

(3) The Board may:

(i) Investigate any alleged unauthorized practice of a physician assistant;

(ii) Investigate any conduct that may be cause for disciplinary action under this title; and

(iii) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a physician assistant, other than an office of a physician assistant in a hospital, related institution, freestanding medical facility, or freestanding birthing center, to determine compliance at that office with the Centers for Disease Control and Prevention's guidelines on universal precautions.

(4) If the entry is necessary to carry out a duty under this subtitle, including an investigation or determination of compliance as provided under paragraph (3) of this subsection and an audit to determine compliance with the Board's requirements with respect to physician assistant practice, the Executive Director of the Board or other duly authorized agent or investigator may enter at any reasonable hour a place of business of a licensed physician or a licensed physician assistant or public premises.

(5) (i) A person may not deny or interfere with an entry under this subsection.

(ii) A person who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

15-206.

(a) The Board shall set reasonable fees for:

(1) The issuance and renewal of licenses; and

(2) The other services rendered by the Board in connection with physician assistants, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR PHYSICIAN ASSISTANTS UNDER § 14-401.1(G) OF THIS ARTICLE.**

15-302.

(g) If the Board determines that a primary or alternate supervising physician or physician assistant is practicing in a manner inconsistent with the requirements of this title or Title 14 of this article, the Board on its own initiative or on the recommendation of the Committee may demand modification of the practice, withdraw the approval of the delegation agreement, or **[take] REFER THE MATTER TO A DISCIPLINARY PANEL FOR THE PURPOSE OF TAKING** other disciplinary action under § 14-404 or § 15-314 of this article.

15-310.

[(e) The Board shall assess each applicant for a license or the renewal of a license to practice as a physician assistant, a fee set by the Board sufficient to fund the activities of the Board's rehabilitation program under § 14-401(g) of this article in conducting a physician assistant rehabilitation program.]

15-312.

(a) Unless **[the Board] A DISCIPLINARY PANEL** agrees to accept the surrender of a license of a physician assistant, the physician assistant may not surrender the license nor may the licensure lapse by operation of law while the physician assistant is under investigation or while charges are pending.

(b) **[The Board] A DISCIPLINARY PANEL** may set conditions on its agreement to accept surrender of a license.

15-314.

(a) Subject to the hearing provisions of § 15-315 of this subtitle, **[the Board] A DISCIPLINARY PANEL**, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license if the physician assistant:

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

(2) Fraudulently or deceptively uses a license;

- (3) Is guilty of:
 - (i) Immoral conduct in the practice of medicine; or
 - (ii) Unprofessional conduct in the practice of medicine;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Solicits or advertises in violation of § 14–503 of this article;
- (6) Abandons a patient;
- (7) Habitually is intoxicated;
- (8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (9) Provides professional services:
 - (i) While under the influence of alcohol; or
 - (ii) While using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (10) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (11) Willfully makes or files a false report or record in the practice of medicine;
- (12) Willfully fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (13) On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article, fails to provide details of a patient’s medical record to the patient, another physician, or hospital;
- (14) Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician;
- (15) Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient;

(16) Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient, unless the licensed physician assistant discloses on the bill to the patient or third-party payor:

(i) The name of the laboratory;

(ii) The amount paid to the laboratory for the test or test series;

and

(iii) The amount of procurement or processing charge of the licensed physician, if any, for each specimen taken;

(17) Makes a willful misrepresentation in treatment;

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine;

(19) Grossly overutilizes health care services;

(20) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(32) Fails to display the notice required under § 14–415 of this article;

(33) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**;

(34) Is convicted of insurance fraud as defined in § 27–801 of the Insurance Article;

(35) Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the physician assistant's medical education;

(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine;

(37) By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(38) By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board **OR A DISCIPLINARY PANEL** in furtherance of any investigation of the Board **OR A DISCIPLINARY PANEL**;

(39) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(40) Fails to keep adequate medical records;

(41) Performs delegated medical acts beyond the scope of the delegation agreement filed with the Board or after notification from the Board that an advanced duty has been disapproved; or

(42) Performs delegated medical acts without the supervision of a physician.

(b) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the physician assistant is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

15-315.

(a) (1) Except as otherwise provided under § 10-226 of the State Government Article, before [the Board] **A DISCIPLINARY PANEL** takes any action under § 15-314(a) of this subtitle, the [Board] **DISCIPLINARY PANEL** shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

(2) The hearing officer shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(3) [The Board] **A DISCIPLINARY PANEL** may administer oaths in connection with any proceeding under this section.

(4) At least 14 days before the hearing, the hearing notice required under this subtitle shall be sent by certified mail to the last known address of the individual.

(b) (1) Any licensee who is aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Board of Review but may take a direct judicial appeal.

(2) The appeal shall be as provided for judicial review of the final decision in Title 10, Subtitle 2 of the State Government Article.

(c) An order of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not be stayed pending review.

(d) All of the findings and orders of the Board **OR A DISCIPLINARY PANEL** that relate to physician assistants are subject to the provisions of Title 14, Subtitle 4 of this article.

15-316.

(a) If, after a hearing under § 15-315 of this subtitle, [the Board] **A DISCIPLINARY PANEL** finds that there are grounds for discipline under § 15-314(a) of this subtitle to suspend or revoke a license of a physician assistant [or to deny a license to an applicant] or to reprimand a licensed physician assistant, the [Board] **DISCIPLINARY PANEL** may impose a fine subject to the Board's regulations instead of or in addition to suspending or revoking the license or reprimanding the licensee.

(b) The Board shall pay any fines collected under this section into the General Fund of the State.

15-316.1.

(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.

(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:

(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 15-314 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;

(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;

(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;

(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 15-314(B) OF THIS SUBTITLE; AND

(5) THE PUBLIC ADDRESS OF THE LICENSEE.

(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.

(D) THE BOARD:

(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND

(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.

(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.

(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

15-502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2013] **2018**.

Article – State Government

8-403.

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

(6) Athletic Training Advisory Committee (§ 14-5D-04 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(45) Perfusion Advisory Committee (§ 14-5E-05 of the Health Occupations Article: [July 1, 2021] **OCTOBER 30, 2016**);

(48) Physician Assistant Advisory Committee (§ 15-201 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(49) Physicians, State Board of (§ 14-201 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(53) Polysomnography Professional Standards Committee (§ 14-5C-05 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(59) Radiation Oncology/Therapy Technologists, Medical Radiation Technologists, and Nuclear Medicine Technologists Advisory Committee (§ 14-5B-05 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(63) Respiratory Care Professional Standards Committee, State (§ 14-5A-05 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, and annually thereafter for the next 5 years, the State Board of Physicians shall

submit a report, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee. The report shall provide an update on:

- (1) any changes to the Board’s discipline process that have been implemented and the effect of those changes on the complaint backlog and complaint resolution times;
- (2) the progress of the Board in procuring and implementing a new information technology system to improve data management;
- (3) a long–term financial plan;
- (4) financial data for the preceding fiscal year; and
- (5) the progress of the Board in implementing the recommendations made by the Department of Legislative Services in the November 2011 publication “Sunset Review: Evaluation of the State Board of Physicians and the Related Allied Health Advisory Committees” and any statutory changes affecting the Board.

SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of § 8–404 of the State Government Article requiring a preliminary evaluation do not apply to the State Board of Physicians or the related allied health advisory committees prior to the evaluation required on or before October 30, 2016.

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

Approved by the Governor, May 2, 2013.